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WATER SUPPLY OF LOS ANGELES, CALIFORNIA

HEARING

BEFORE THE

COMMITTEE ON THE PUBLIC LANDS

U.S. Congress. HOUSE OF REPRESENTATIVES

SIXTY-SIXTH CONGRESS

FIRST SESSION

ON

H. R. 406

A BILL GRANTING RIGHTS OF WAY OVER CERTAIN LANDS FOR THE WATER SUPPLY OF LOS ANGELES, CALIFORNIA

OCTOBER 31—NOVEMBER 4, 1919

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COMMITTEE ON THE PUBLIC LANDS.

SIXTY-SIXTH CONGRESS.

FIRST SESSION.

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MAY 7 1920

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WATER SUPPLY OF LOS ANGELES, CALIF.

COMMITTEE ON PUBLIC LANDS,
HOUSE OF REPRESENTATIVES,
Friday, October 31, 1919.

The committee met at 10 o'clock a. m., Hon. Nicholas J. Sinnott (chairman) presiding.

The CHAIRMAN. The meeting was called this morning to consider H. R. 406, introduced by Mr. Osborne, of California, a bill to grant certain rights of way and power rights and sites to the city of Los Angeles. I understand there is objection from some people in California, who claim that the granting of these rights will interfere with certain proposed irrigation and power development, and so on, which they have in contemplation. I would like to know who is here to be heard in favor of and against the bill. First, who will appear in favor of the bill?

Mr. OSBORNE. Mr. Chairman, I will make a brief statement in regard to the bill, but the principal statement will be made by Mr. W. B. Mathews, counsel for the city of Los Angeles, who has been the counsel in aqueduct matters for a great many years; in fact, from its inception.

The CHAIRMAN. Is there anyone else here in favor of the bill?

Mr. OSBORNE. We have Representative Randall and Mr. R. Woodland Gates.

Mr. BARBOUR. There are several here who want to appear on the other side.

The CHAIRMAN. Now, who desires to appear against the bill?

Mr. KETTNER. Mr. Chairman, there are a number of people here who desire to be heard, who are against the bill in its present form, Mr. Fritz, of Pomona, Judge Dixon, and Mr. Edgar, of Imperial Valley. Did you want to be heard, Mr. Adams?

Mr. ADAMS. Yes, sir.

Mr. KETTNER. Mr. Adams and Mr. Consaul. I believe, Mr. Chairman, all the people in my district who are opposed to this bill are present, and I hope that you will be able——

The CHAIRMAN. You have mentioned four; is that all?

Mr. KETTNER. That is all, I believe. They represent the different interests that are interested.

The CHAIRMAN. I want to get some idea as to how many want to be heard.

Mr. KETTNER. Unless Mr. Osborne wishes to start in, I will ask that Mr. Fritz be heard first.

The CHAIRMAN. We will first hear the proponents of the bill.

Mr. KETTNER. Very well. I thought we had that in the former hearings.

The CHAIRMAN. I will state that to-day is private calendar day in the House, and I understand they are going to take up the private

calendar, there are a number of bills on that calendar, from this committee, so we can not run now longer than about a quarter of twelve.

Mr. Osborne, will you take charge of the argument in favor of this measure, and introduce the witnesses that you desire to be heard. I wish that all the witnesses would state their names and residence, and their interest in this legislation, for or against it.

STATEMENT OF HON. HENRY Z. OSBORNE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA.

Mr. OSBORNE. Mr. Chairman, and gentlemen of the committee, this bill, which is for the purpose of granting rights or way and reservoir sites, powerhouse sites and other easements in favor of the city of Los Angeles, has been before the committee during the past two sessions of Congress. There are some new members here who are perhaps not familiar with what has been done in the past.

This bill was introduced by me early in the Sixty-Fifth Congress, and on account of the general power bill, it was postponed from time to time. A hearing finally was had in the early part of the present year, in January and February. At that time there were a number of protestants against certain features of the bill, and among them, some of the gentlemen who are here now. After a very full discussion before the committee, agreements were arrived at to the satisfaction of all the protestants to the bill who had appeared at that time. The committee took into account the various agreements, which were satisfactory to everybody, and approved the bill, and reported it to the House favorably, unanimously. It was so late in the session, about 10 days before the adjournment, that we were unable to get it before the House.

The CHAIRMAN. Was that bill identical with this bill, H. R. 406?

Mr. OSBORNE. It is exactly, word for word and letter for letter, and punctuation and all, like this bill.

Mr. SMITH. Which was approved even by those who had been opponents of the bill?

Mr. OSBORNE. Absolutely; without a dissenting voice anywhere.

I now present the bill again to the committee. In doing so I think it not improper to state that the Los Angeles Aqueduct is mainly for the purpose of providing the water supply of the city of Los Angeles. Some years ago we discovered in Los Angeles that we were running short of water, and our engineers looked about for a water supply, and they reported to the city in favor of this supply, if it could be obtained, from the Owens River. I will state that Owens River empties into Owens Lake, which is one of the dead lakes which are not uncommon in the western country, like the Great Salt Lake, Mono Lake, and Owens Lake. The water in the lake is extremely brackish and forms incrustations of minerals of various kinds and is not potable. After the water gets into that lake it is of no further value for agricultural purposes or for anything excepting the amount of mineral that forms in this water.

I do not know that I could state the situation more concisely than it is stated in the report of this committee made to the House on the 17th of February of this year. The report was adopted by the full

committee and presented by Judge Raker as the mouthpiece of the committee:

The Los Angeles Aqueduct, for which rights of way, reservoir sites, and power-house sites upon and across public lands are granted in this bill, is the main water supply of the city of Los Angeles, Calif. The aqueduct was completed several years ago. It constitutes one of the most extensive municipally owned water-supply systems, supplemented by a hydroelectric-power system, in the United States. The aqueduct is 240 miles long, extending from the base of Mount Whitney, on the east side of the Sierras, for the most part through a rough, mountainous country, sparsely populated, to the city of Los Angeles, now having a population of about 600,000. It is cement lined throughout nearly its entire length, about 50 miles of which is tunneled through the solid rock of the mountains, and has a capacity of 20,000 miner's inches—a very good-sized river. This water prior to the construction of the aqueduct discharged in Owens Lake—

Which, as I have explained to you, is brackish, and thereafter the water becomes of no value.

The city of Los Angeles has utilized to some extent the facilities which the aqueduct affords in its descent from about 4,000 feet elevation to nearly sea level to generate electric power for the lighting of the city and for power uses, and contemplates further generation of power. It has one unit of 37,500 horsepower completed and in use. The city owns the water which it uses and intends to use under the laws of the State of California, and is asking only for rights of way across public lands, as stated. In the construction of the aqueduct it was found necessary, because of the geologic structure of the mountains——

The CHAIRMAN (interposing). Does that say they are asking only for rights of way? Are they not asking for dam sites and for the impounding of water?

Mr. OSBORNE. Yes; we are asking——

The CHAIRMAN (continuing). Storage dams and reservoirs?

Mr. OSBORNE. Yes; that I stated prior to this point.

Mr. TAYLOR. That means, I presume, they are not asking for any more water.

Mr. OSBORNE. We are not asking for any more water, because the Government does not furnish the water. Our water rights come from the State.

Mr. TAYLOR. I understand that.

Mr. OSBORNE. And this committee would have nothing whatever to do with that and could not help us out in that.

Mr. TAYLOR. I understand that.

Mr. OSBORNE. The change in the line of construction of the aqueduct was found necessary because of the geological formation and for other economical reasons. It was necessary to deviate from the original rights of way granted in the act of June 30, 1906; and I will state that that act was the original act of which this is an amendment and one in which the then President of the United States, Col. Roosevelt, took a very great interest. This project appealed to him very strongly, and he helped out very greatly in obtaining these original rights of way, to which we are now asking something additional. The deviation in some places is but a few feet and at other places many hundred feet, but for a length of about 80 miles.

(Letter of President Theodore Roosevelt regarding grant of lands and rights of way for the water and power projects of the city of Los Angeles:)

THE WHITE HOUSE,
Washington, June 25, 1906.

Messrs. Walcott and Pinchot state that there is no objection to permitting Los Angeles to use the water for irrigating purposes so far as there is a sur-

plusage after the city's drinking, washing, fire, and other needs have been met. They feel that no monopoly in an offensive sense is created by municipal ownership of the water as obtained under this bill, and that as a matter of fact, to attempt to deprive the city of Los Angeles of the right to use the water for irrigation would mean that for many years no use whatever could be made by it of the surplus water beyond that required for drinking and similar purposes.

I am impressed by the fact that the chief opposition to this bill, aside from the opposition of the few settlers in Owens Valley (whose interest is genuine, but whose interest must unfortunately be disregarded in view of the infinitely greater interest to be served by putting the water in Los Angeles) comes from certain private power companies whose object evidently is for their own pecuniary interest to prevent the municipality from furnishing its own water. The people at the head of these power companies are doubtless respectable citizens, and if there is no law they have the right to seek their own pecuniary advantage in securing the control of this necessary of life for the city. Nevertheless, their opposition seems to me to afford one of the strongest arguments for passing the law, inasmuch as it ought not to be within the power of private individuals to control such a necessary of life as against the municipality itself.

Under the circumstances, I decide, in accordance with the recommendations of the Director of the Geological Survey and the Chief of the Forestry Service, that the bill be approved, with the prohibition against the use of the water by municipality for irrigation struck out. I request, however, that there be put in the bill a prohibition against the city of Los Angeles ever selling or letting to any corporation or individual except a municipality, the right for that corporation or the individual itself to sell or sublet the water given to it or him by the city for irrigation purposes.

Sincerely, yours,

THEODORE ROOSEVELT.

P. S.—Having read the above aloud, I now find that everybody agrees to it—you, Mr. Secretary, as well as Senator Flint, Director Walcott, and Mr. Pinchot, and therefore I submit it with a far more satisfied heart than when I started to dictate this letter.

This bill is intended to correct the rights of way to conform with the construction of the aqueduct, the unused portions of the right of way to revert to the Government and be restored to the public domain. The rights of way granted are not, however, confined to those corrections, but are intended to include reservoir and power sites and transmission lines from streams that go to supply the Owens River, and which are now in the legal ownership of the city of Los Angeles.

It is to be remembered that this is not a money-making enterprise for private advantage. It is necessary public utility for a great city now numbering more than 600,000 people. The aqueduct proper has cost Los Angeles $24,500,000 and the power plant $8,000,000 additional, a total of $32,500,000, which has now been expended upon the plant, and, in addition to that, we have $2,000,000 unexpended and the city has recently bonded itself in the sum of $11,000,000 more for the purpose of acquiring a local transmission plant in the city of Los Angeles. So, we have put into this enterprise about $47,500,000, and before it is done we will surely be in $50,000,000. Our people have that much confidence in it.

All rights of others embraced in the rights of way asked for are protected in this bill.

That was the report of the committee last year, that they were protected.

I want to say something to you of the Los Angeles Aqueduct itself. The aqueduct is 240 miles long with the great capacity of 20,000 miner's inches that I have indicated, and it is one of the greatest aqueduct plans or systems in the world. It is exceeded in this country only by the New York City-Catskill Aqueduct, and as to that

it is more than twice as long as the Catskill Aqueduct, although it did not cost as much. The Catskill Aqueduct cost $165,000,000. It carries more than 50 per cent as much water as the Catskill Aqueduct. It probably cost much more money than the great aqueducts of ancient Rome, of which there were 10, the longest of which was 62 miles, and some of which have endured to the present day. But those aqueducts took five centuries to build; that is, the aqueducts of Rome. Our aqueduct was built in eight years—52 miles of it tunneled through the solid mountains. The Inca Indians in Peru constructed wonderful irrigation systems, one 360 miles in length. In western Australia they have carried water across the desert in iron pipes 30 inches in diameter, 350 miles. Those are the only enterprises that compare with it in the history of the world. I mention this to show you how extensive is this great municipally owned water system, and how deeply interested are our people in this project. Everybody in southern California is interested in it, particularly in the great city which I have the honor, in part, to represent. There is a drop of nearly 4,000 feet from the intake at the top along the course of the conduit, and you can see, gentlemen, what an enormous amount of power is possible to be developed by this great amount of water and great fall.

The CHAIRMAN. What is your intake on?

Mr. OSBORNE. On the Owens River—that is, above and north of Owens Lake. This possibility of power will enable us to take care partly of the construction and the carrying on of this great enterprise.

We have along the line of the aqueduct five reservoirs. One of these reservoirs is 7 miles long and embraces 15 square miles, and has a capacity of a three-years' water supply for Los Angeles if not another drop of water came into it. We have four other reservoirs, smaller reservoirs that are intended to control the flow of water.

Now, I think, Mr. Chairman, that it would be proper to insert at this point in the hearings a copy of the bill, H. R. 406.

The CHAIRMAN. Without objection that will be done.

(The bill, H. R. 406, referred to by Mr. Osborne, follows:)

[H. R. 406, Sixty-sixth Congress, first session.]

A BILL Amending an act entitled "An act authorizing and directing the Secretary of the Interior to sell to the city of Los Angeles, California, certain public lands in California; and granting rights in, over, and through the Sierra Forest Reserve, the Santa Barbara Forest Reserve, and the San Gabriel Timberland Reserve, California, to the city of Los Angeles, California," approved June 30, 1906.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of an act entitled "An act authorizing and directing the Secretary of the Interior to sell to the city of Los Angeles, California, certain public lands in California; and granting rights in, over, and through the Sierra Forest Reserve, the Santa Barbara Forest Reserve, and the San Gabriel Timberland Reserve, California, to the city of Los Angeles, California," approved June 30, 1906, be, and the same is hereby, amended to read as follows:

"SEC. 1. That there is hereby granted to the city of Los Angeles, California, a municipal corporation of the State of California, all necessary rights of way, not to exceed two hundred and fifty feet in width, over and through the public lands of the United States in the counties of Mono, Inyo, Kern, and Los Angeles, State of California, and over and through the Inyo and Santa Barbara National Forests, and that portion of the Angeles National Forest situate and lying west of range six west, San Bernandino meridian, as established by the United States public land survey, and that portion of the Sequoia National Forest east of the crest of the Sierra Nevada Mountains, in said State, for the

purpose of constructing, operating, and maintaining canals, ditches, pipes and pipe lines, flumes, tunnels, and conduits for conveying water to the city of Los Angeles, and for the purpose of constructing, operating, and maintaining power and electric plants poles, and lines for the generation and distribution of electric energy, together with such lands as the Secretary of the Interior may deem to be actually necessary for power houses, diverting and storage dams and reservoirs, and necessary buildings and structures to be used in connection with the construction, operation, and maintenance of said water, power, and electric plants whenever said city shall have filed as hereinafter provided, and the same shall have been approved by the Secretary of the Interior, a map or maps showing the boundaries, locations, and extent of said proposed rights of way for the purposes hereinabove set forth: *Provided, however,* That the grant hereby made shall not apply to lands located in the drainage basin of Kern River or in that portion of Mono County lying north and west of the Owens River drainage basin, or to lands located upon Bishop Creek or its branches in Inyo County, or to lands in the Fish Slough Reservoir site in the counties of Inyo and Mono, in said State."

SEC. 2. That section 2 of the act entitled and approved as aforesaid be, and the same is hereby, amended to read as follows:

"SEC. 2. That on or before the 31st day of December, 1922, the city of Los Angeles shall file with the register of the United States land offices in the districts where the lands traversed by said rights of way are located a map or maps showing the boundaries, locations, and extent of said proposed rights of way, for the purposes stated in section 1 of this act, and there shall also be filed within that time all desired changes of location, the amended map or maps necessary to show such changes of location to be filed in the same manner and subject to the same approval as are the original map or maps of location, but no construction work shall be commenced on any of said lands until the map or maps have been filed as herein provided and until said map or maps and the proposed plan of development have been approved by the Secretary of the Interior, and the approval by the Secretary of the Interior of any amended map or maps showing changes of location of said rights of way shall operate as an abandonment ipso facto by the city of Los Angeles, to the extent of such change or changes, of the rights of way indicated on the original map or maps: *Provided,* That any rights inuring to the city of Los Angeles under this act shall, on approval by the Secretary of the Interior of the map or maps and the plan of development referred to, relate back to the date of the filing of said map or maps with the register of the United States Land Office, as provided herein."

SEC. 3. That section 3 of the act entitled and approved as aforesaid be, and the same is hereby, amended to read as follows:

"SEC. 3. That the rights of way hereby granted shall not be effective over any land upon which homestead, mining, or other existing valid claims shall have been filed or made until the city of Los Angeles shall have procured proper relinquishments of all such entries and claims, or acquired title by due process of law and just compensation paid to said entrymen or claimants and caused proper evidence of such fact to be filed with the Secretary of the Interior: *Provided, however,* That this act shall not apply to any lands embraced in rights of way heretofore approved under any act of Congress, nor affect the adjudication of any pending applications for rights of way by the owner or owners of existing water rights, and that no private right, title, interest, or claim of any person, persons, or corporation, in or to any of the lands traversed by or embraced in said right of way shall be interfered with or abridged, except with the consent of the owner or owners or claimant or claimants thereof, or by due process of law, and just compensation paid to such owner or claimant: *Provided,* That the lands affected hereby shall be subject to applications for homesteads, for rights of way for canals, ditches, or reservoirs, for the conveyance, delivery, or storage of water for irrigation, if same be filed in the proper United States land office prior to the filing of maps by the city of Los Angeles, showing the boundaries, location, and extent of the rights of way sought by said city: *And provided further,* That the grant hereby made shall not apply to any lands or rights of way included in any application filed by, and thereafter approved to, any person or corporation for the development of hydroelectric power in connection with any project upon which actual construction work was being performed prior to June 30, 1906, on that portion of Owens River lying above the confluence of Rock Creek and said river, and locally known as Owens River Gorge, and upon which

portion construction work may have been carried on continuously since that date: *Provided*, That such application for rights of way over or the right to use lands shall be filed within six months from the date of the passage of this act."

SEC. 4. That section 5 of the act entitled and approved as aforesaid be, and the same is hereby, amended to read as follows:

"SEC. 5. That all lands over which the rights of way mentioned in this act shall pass shall be disposed of, subject to such easements: *Provided, however*, That if the construction of said waterworks shall not have been begun in good faith within five years of the date of the approval of this act, then all rights hereunder shall be forfeited to the United States: *And provided further*, That if any power or electric works or structure to be used in connection therewith shall not be completed within five years after approval of the map or maps of rights of way for such works or structure as herein provided, or within such additional time as the Secretary of the Interior shall, in his discretion, grant, then such rights herein granted shall be forfeited as to any uncompleted portion of such works or structure, to the extent that the same is not completed at the date of the forfeiture."

SEC. 5. That said act entitled and approved as aforesaid be, and the same is hereby, amended by adding a new section thereto to read as follows:

SEC. 8. That this act is a grant upon certain expressed conditions specifically set forth herein, and nothing herein contained shall be construed as affecting or intended to affect or in anywise to interfere with the laws of the State of California, relating to the control, appropriation, use, or distribution of water used in irrigation or for municipal or other uses, or any vested right acquired thereunder, and the Secretaries of the Interior and Agriculture, respectively, and the city of Los Angeles, in carrying out the provisions of this act, shall proceed in conformity with the laws of said State.

Mr. TAYLOR. Have you the report of the Interior Department?

Mr. OSBORNE. There is one here with the committee.

Mr. TAYLOR. That should go in at this point, also.

The CHAIRMAN. Without objection, the reports of the Interior Department and the Agricultural Department will be included in the record.

(The reports of the Interior Department and Agricultural Department follow:)

DEPARTMENT OF THE INTERIOR,
Washington, October 15, 1919.

MY DEAR MR. SINNOTT: I am in receipt of your request for report upon H. R. 406, a bill to amend an act authorizing and directing the Secretary of the Interior to sell to the city of Los Angeles, California, certain public lands in California and granting rights in, over, and through the Sierra Forest Reserve, the Santa Barbara Forest Reserve, and the San Gabriel Timberland Reserve, California, to the city of Los Angeles, California, approved June thirtieth, nineteen hundred and six.

The bill is similar to S. 4023, upon which report was submitted to the House Committee on Public Lands February 15, 1919. A copy of said report is herewith inclosed, and I know of no reason why the previous recommendation should not be adhered to.

Cordially, yours,

F. K. LANE, *Secretary.*

Hon. N. J. SINNOTT,
Chairman Committee on the Public Lands,
House of Representatives.

DEPARTMENT OF THE INTERIOR,
Washington, February 15, 1919.

MY DEAR MR. FERRIS: I am in receipt of your letter of February 12, 1919, transmitting copy of S. 4023, as agreed upon by the House Committee on the Public Lands, with request that same be reported upon section by section.

This measure is supplementary to the act of Congress approved June 30, 1906, entitled "An act authorizing and directing the Secretary of the Interior to sell to the city of Los Angeles, California, certain public lands in California,

and granting rights in, over, and through the Sierra Forest Reserve, the Santa Barbara Forest Reserve, and the San Gabriel Timber Land Reserve, California, to the city of Los Angeles, California."

The act of 1906 was passed by Congress for the purpose of aiding the city in the development of an adequate and permanent water supply, and the purpose of the amendatory act seems to be to extend the said grant and to permit the development of certain power possibilities in connection therewith. Report upon the measure was submitted by the department April 10, 1918.

The amendments adopted by the committee of the House of Representatives in section 1 of the amendatory act limit the scope of the city's grant to narrower limits than did the original grant and did the bill S. 4023, as passed by the Senate. It further specifically excludes from its operations what is known as Fish Slough Reservoir site, which site, it is understood, is proposed to be developed for irrigation uses and purposes by residents of the locality.

Section 3 as adopted by your committee excludes from operation of the grant to the city any land upon which there are prior valid homestead, mining, or other claims, or upon which rights of way have been heretofore approved or are pending under any act of Congress. The first proviso to the section is adapted to the protection of possible future applications for rights of way for canals, ditches, or reservoirs for irrigation. The second proviso protects private power developments in a described area upon which actual construction work was begun prior to the date of the original grant to the city, and which work has been carried on continuously since that date.

Section 5 adopted by the House committee is a statement that nothing in the act shall be construed as affecting or interfering with the laws of the State of California relating to the control, appropriation, use, or distribution of water, or of any vested right acquired thereunder.

Discussing the act by section, as requested, it appears that section 1 proposes to grant to the city, within a defined and limited area, all necessary rights of way through public lands of the United States for the purpose of constructing, operating, and maintaining structures for conveying water to the city of Los Angeles or utilized in constructing, operating, and maintaining hydroelectric plants and lines, subject to the filing by the city, and the approval of the Secretary of the Interior, of maps showing the boundaries, locations, and extent of the proposed rights of way.

Section 2 of the act requires that the maps described in section 1 of the act shall be filed in the local United States land office on or before December 31, 1922, and also that before that time any amendments of existing rights of way must be filed. No construction work is to be begun on any lands until such maps have been filed and approved. The filing of any amended map is to operate as an abandonment to the extent of the deviation from the original maps filed. The proviso to the section is to the effect that any rights inuring to the city shall, on approval by the Secretary of its maps and plans, relate back to the date of filing in the local land office.

Section 3 of the bill provides that the rights of way granted shall not defeat or affect any valid homestead, mining, or other claims heretofore made or filed under the public-land laws of the United States, including applications for rights of way. The first proviso to the section permits, at any time prior to the filing of maps by the city, the filing and approval of applications by others for homesteads, or for rights of way for canals, ditches, or reservoirs for the conveyance or storage of water for irrigation. The second proviso protects the lands or rights of way included in any application filed by any person or corporation for the development of hydroelectric power in connection with a project within a described area upon which actual construction work was being performed prior to June 30, 1906, and has been carried on continuously since that date. Such applications, however, are required to be filed within six months from the date of the act.

Section 5 of the bill provides that public lands over which rights of way are granted by the bill shall be disposed of subject to such easement, but that if construction of the waterworks be not begun within five years from date of approval of the act, all rights under the grant shall be forfeited. It is further provided that if any power or electric works are not completed within five years after the approval of the maps of rights of way, or within such additional time as the Secretary of the Interior may specify, then the rights to any uncompleted portion of the works shall be forfeited.

Section 4 of the Senate bill is omitted from the House report, for the reason that it was deemed inadvisable to limit the development and disposition of any

electricity which may be generated by the city in connection with the proposed municipal system.

I have been informed that the Department of Agriculture and the War Industries Board have expressed themselves as in favor of this.

Section 5 of the act, as already noted, stipulates that nothing in the act shall be construed as in any way interfering with the laws of the State relative to the control, operation, use, or distribution of water or of any vested right acquired thereunder.

In the previous report made by the acting secretary of this department certain amendments were suggested to the Senate bill, and I am advised that these amendments have been made. I believe that the further amendments adopted by your committee improve the bill, in that they limit the area to which the bill is applicable, and specifically protect various existing claims or rights under the public-land law, as well as according an opportunity for further irrigation development in the vicinity.

I, accordingly, recommend that the bill as amended be enacted.

Cordially, yours,

F. K. LANE, *Secretary.*

Hon. SCOTT FERRIS,
Chairman Committee on Public Lands,
House of Representatives.

DEPARTMENT OF AGRICULTURE,
Washington, October 21, 1919.

Hon. N. J. SINNOTT,
House of Representatives,

MY DEAR MR. SINNOTT: Reference is made to your request of October 14 for a report on H. R. 406.

By letters of January 2, January 16, and February 13 this department reported upon similar bills (H. R. 10524 and S. 4023) before the Sixty-fifth Congress. It seems necessary, therefore, only to repeat such of the recommendations as are applicable to the present bill.

The proviso appearing in lines 10 to 16, page 5, of the draft of the bill submitted with your request has the effect of leaving open to homestead entry and applications for rights of way for irrigation use the areas affected by the bill until the city files its maps. In order to make it clear that the national forest lands are not made subject to entry or filing for homesteads or rights of way not now authorized by law, it is suggested that the words "in accordance with existing law continue to" be inserted in line 11 on page 5, immediately after the word "shall."

If there existed satisfactory general legislation under which the city could secure those rights of way which it desires for power development, the department would recommend that the proposed bill be confined in its scope to approval of those portions of the right now occupied or used, but which it is understood deviate from the right of way as defined in the original act of June 30, 1906. Furthermore, should a bill such as the general water-power measure which has passed the House and is now before the Senate be enacted, there would be no need of enacting special legislation to enable the city of Los Angles to secure the rights of way which it requires for the completion of its power development plans. Since, however, it does not appear that under the provisions of the bill, H. R. 406, the city would obtain concessions inconsistent either with existing general legislation or with the legislaton proposed under the water-power bill, this department would not object to the passage of the proposed bill, if amended as suggested above.

Very sincerely, yours,

J. R. RIGGS, *Secretary.*

Mr. TAYLOR. Have you a report from any other department?

Mr. OSBORNE. No; reports from just those two departments.

Mr. TAYLOR. Have you a report from the War Department?

Mr. OSBORNE. No, sir. It do not think that it comes within the jurisdiction of the War Department.

Mr. ELSTON. It is not a navigable river?

Mr. OSBORNE. No, sir. I will state that through the tunnel you can take the biggest sort of limousine and run 50 miles underground, but it is not a navigable river.

Mr. RAKER. Before passing the point you are on, have you the capacity of the reservoirs with their names which could be inserted in the record?

Mr. OSBORNE. The large reservoir is all that I have.

Mr. RAKER. Have you the capacity, the amount of water which they hold, so that it might go into the record?

Mr. OSBORNE. No; I do not think I have. The only thing that appears here is that it will contain a 3-years' supply of water for the city. I do not suppose that is figured upon the full capacity of 265,000,000 gallons a day, but whatever may be the city's requirements per day, it would amount to a 3-years' supply.

Mr. RAKER. Have you the capacity of the canal from the intake?

Mr. OSBORNE. The aqueduct to the lake has a capacity of 500,000,000 gallons per day, just the same capacity from the intake to the first reservoir that the Catskill enterprise has.

Mr. TAYLOR. In the last hearing in the last Congress there were a number of statements and several acts of Congress inserted in the hearing, I notice, and I was wondering whether or not there are enough of the old hearings for the new members and for other Members of the House, and whether we had not better reinsert two or three of those sets pertaining to this matter—I think the statutes should go in.

Mr. ELSTON. There are enough copies of the old hearings for every member of the committee.

Mr. OSBORNE. I intended to ask that the act of 1906, granting the original right of way, be inserted in the record, because that would be convenient for comparison.

(The act approved June 30, 1906, follows:)

AN ACT Authorizing and directing the Secretary of the Interior to sell to the city of Los Angeles, California, certain public lands in California; and granting rights in, over, and through the Sierra Forest Reserve, the Santa Barbara Forest Reserve, and the San Gabriel Timber Land Reserve, California, to the city of Los Angeles, California.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby granted to the city of Los Angeles, California, a municipal corporation of the State of California, all necessary rights of way, not to exceed two hundred and fifty feet in width, over and through the public lands of the United States in the counties of Inyo, Kern, and Los Angeles, State of California, and over and through the Sierra and Santa Barbara Forest Reserves and the San Gabriel Timber Land Reserve, in said State, for the purpose of constructing, operating, and maintaining canals, ditches, pipes, and pipe lines, flumes, tunnels, and conduits for conveying water to the city of Los Angeles, and for the purpose of constructing, operating, and maintaining power and electric plants, poles, and lines for the generation and distribution of electric energy together with such lands as the Secretary of the Interior may deem to be actually necessary for power houses, diverting and storage dams and reservoirs, and necessary buildings and structures to be used in connection with the construction, operation, and maintenance of said water, power, and electric plants, whenever said city shall have filed, as hereinafter provided, and the same shall have been approved by the Secretary of the Interior, a map or maps showing the boundaries, locations, and extent of said proposed rights of way for the purposes hereinabove set forth.

SEC. 2. That within one year after the passage of this act the city of Los Angeles shall file with the registers of the United States land offices in the districts where the lands traversed by said rights of way are located a map or maps showing the boundaries, locations, and extent of said proposed rights of way, for the purposes stated in section one of this act; but no construction

work shall be commenced on said land until said map or maps have been filed as herein provided and approved by the Secretary of the Interior: *Provided, however*, That any changes of location of said rights of way may be made by said city of Los Angeles, within two years after the filing of said map or maps, by filing such additional map or maps as may be necessary to show such changes of location, said additional map or maps to be filed in the same manner as the original map or maps; and the approval of the Secretary of the Interior of said map or maps showing changes of location of said rights of way shall operate as an abandonment by the said city of Los Angeles to the extent of such change or changes, of the rights of way indicated on the original maps: *And provided further*, That any rights inuring to the city of Los Angeles under this act shall, on the approval of the map or maps referred to herein by the Secretary of the Interior, relate back to the date of the filing of said map or maps with the register of the United States Land Office, as provided herein.

SEC. 3. That the rights of way hereby granted shall not be effective over any land upon which homestead, mining, or other existing valid claims shall have been filed or made until the city of Los Angeles shall have procured proper relinquishments of all such entries and claims or acquired title by due process of law and just compensation paid to said entrymen or claimants, and caused proper evidence of such fact to be filed with the Secretary of the Interior: *Provided, however*, That this act shall not apply to any lands embraced in rights of way heretofore approved under any act of Congress, nor affect the adjudication of any pending applications for rights of way by the owner or owners of existing water rights; and that no private right, title, interest, or claim of any person, persons, or corporation, in or to any of the lands traversed by or embraced in said right of way shall be interfered with or abridged, except with the consent of the owner or owners or claimant or claimants thereof, or by due process of law, and just compensation paid to such owner or claimant.

SEC. 4. That the city of Los Angeles shall conform to all regulations adopted and prescribed by the Secretary of Agriculture governing the forest reserves, and shall not take, cut, or destroy any timber within the forest reserves, except such as may be actually necessary to remove to construct its power plants and structures, poles and flumes, storage dams and reservoirs; and it shall pay to the Forest Service of the Department of Agriculture the full value of all timber and wood cut, used, or destroyed on any of the rights of way and lands within forest reserves hereby granted: *Provided further*, That the city shall construct and maintain in good repair bridges or other practicable crossings over its rights of way within the forest reserves when and where directed in writing by the Forester of the United States Department of Agriculture, and elsewhere on public lands along the line of said works as required by the Secretary of the Interior; and said grantee shall, as said water works are completed, if directed by the Secretary of the Interior, construct and maintain along each side of said right of way a lawful fence as defined by the laws of the State of California, with such lanes or crossings for domestic animals as the aforesaid officers shall require: *Provided further*, That the city of Los Angeles shall clear its rights of way within forest reserves of any débris or inflammable material as directed by the Forester of the United States Department of Agriculture: *Provided further*, That the said city shall allow any wagon road which it may construct within forest reserves to be freely used by forest officers and the officers of the Interior Department and by the public, and shall allow to the Forest Service of the United States Department of Agriculture and to the officers of the Interior Department, for official business only, the free use of any telephones, telegraphs, or electric railroads it may construct and maintain within the forest reserves or on the public lands, together with the right to connect with any such telephone lines private telephone wires for the exclusive use of said Forest Service or of the Interior Department: *And provided further*, That the Forest Service may, within forest reserves, protect, use, and administer said land and resources within said rights of way under forest reserve laws and regulations, but in so doing must not interfere with the full enjoyments of the right of way by the city of Los Angeles: *And provided further*, That in the event that the Secretary of the Interior shall abandon the project known as the Owens River project for the irrigation of lands in Inyo County, California, under the act of June seventeenth, nineteen hundred and two, the city of Los Angeles, in said State, is to pay to the Secretary of the Interior, for the account of the reclamation fund established by said act, the amount expended for preliminary surveys, examinations, and river measure-

ments, not exceeding $14,000, and in consideration of said payment the said city of Los Angeles is to have the benefit of the use of the maps and field notes resulting from said surveys, examinations, and river measurements, and the preference right to acquire at any time within three years from the approval of this act any lands now reserved by the United States under the terms of said reclamation act in connection with said project, necessary for storage or right-of-way purposes, upon filing with the register and receiver of the land office in the land district where any such lands sought to be acquired are situated a map showing the lands desired to be acquired, and upon the approval of said map or maps by the Secretary of the Interior and upon the payment of $1.25 per acre to the receiver of said land office title to said land so reserved and filed on shall vest in said city of Los Angeles, and such title shall be and remain in said city only for the purposes aforesaid, and shall revert to the United States in the event of the abandonment thereof for the purposes aforesaid: *Provided, however*, That the terms of this act shall not apply to any lands upon Bishop Creek or its branches in said county of Inyo.

SEC. 5. That all lands over which the rights of way mentioned in this act shall pass be disposed of subject to such easements: *Provided, however*, That if construction of said water works shall not have been begun in good faith within five years from the date of approval of this act, or if after such period of five years there shall be a cessation of such construction for a period of three consecutive years, then all rights hereunder shall be forfeited to the United States.

SEC. 6. That the city of Los Angeles is prohibited from ever selling or letting to any corporation or individual, except a municipality, the right for such corporation or individual to sell or sublet the water sold or given to it or him by the city.

SEC. 7. That the right to amend, alter, or repeal this act at any time is hereby reserved.

Approved, June 30, 1906.

Mr. TAYLOR. Is there anything else that should go into the record at this time in order to make it complete?

The CHAIRMAN. We can reprint the entire old hearing and certain additional data.

Mr. TAYLOR. All right; but there is no use to spend money for reprinting the hearing if there are sufficient copies of the hearing for the members of the committee and the House.

Mr. RAKER. Just going a little further, what is the capacity of the canal, say, 100 miles from the aqueduct, that will give a definite point; what amount of water will pass a given point in a second or a minute?

Mr. MATHEWS. About 425 second-feet. That is the normal, regular capacity. It is larger at the upper end, but it goes down to the regular size.

Mr. RAKER. I wish you would give the capacity of the canal at the intake, then at 40 miles below, then at 50 miles, then at 100 miles below, then at 150 miles below, and then at 200 miles below, so that the committee may know the capacity of the canal or aqueduct approximately on through its entire course.

Mr. ELSTON. Supplementing that, I think it would be a good idea if there was furnished for the record the power possibilities of the stream from the intake on to Los Angeles with the additional power sites and reservoirs which they are using above the intake.

Mr. RAKER. I thought possibly that Mr. Osborne might have the data to insert in the record?

Mr. OSBORNE. No; I have it only in gallons. The capacity of the intake is 265,000,000 gallons for 24 hours.

Mr. RAKER. If you do not know, I will not detain you longer.

The CHAIRMAN. The gallons can be converted into second-feet?

Mr. OSBORNE. Yes, sir.

Mr. RAKER. The engineers' report would show it in second-feet.

Mr. Osborne, have you any information that you can supply to the committee as to the amount of water that has been carried through the canal each year since it has been open, as to one-third volumne of its capacity or two-thirds.

Mr. OSBORNE. I have not that data.

Mr. RAKER. Can that be secured for the committee?

Mr. OSBORNE. I think so; yes, sir.

Mr. SUMMERS. I should like to ask if the water is used for domestic purposes and for the general of power only—is there any irrigation?

Mr. OSBORNE. I understand that approximately 200 000 people in Los Angeles are supplied with water from the aqueduct for domestic purposes. Over one-half of the yearly flow of the aqueduct is already used for domestic purposes in the city. The surplus water is used for irrigation within the contiguous territory.

Mr. BARBOUR. In San Fernando Valley?

Mr. OSBORNE. Yes, sir.

Mr. SUMMERS. How much land is irrigated?

Mr. OSBORNE. I can not tell you, but I think we could obtain that.

Mr. MAYS. You said that the water was brackish?

Mr. OSBORNE. The water does not come down brackish.

Mr. MAYS. I understood you to say that Owens River itself was brackish?

Mr. OSBORNE. No, sir.

Mr. SUMMERS. I believe you did say that, Mr. Osborne?

Mr. OSBORNE. I meant Owens Lake, if I said river.

Mr. RAKER. Up to the present time, do I understand that the water for domestic purposes has been supplied to the city of Los Angeles through the aqueduct?

Mr. OSBORNE. Do you mean whether the city is entirely supplied by the aqueduct?

Mr. RAKER. Yes, sir.

Mr. OSBORNE. Not entirely; the old public works are still running.

Mr. RAKER. Have you had a sufficient amount from those works in existence, supplemented by the aqueduct supply, to supply all the needs of the city of Los Angeles for domestic purposes?

Mr. OSBORNE. Yes; we have plenty. If it had not been for the aqueduct we would have been short of water the last two or three years, especially the present year.

Mr. RAKER. What amount of surplus has there been going down through the canal during the years it has been used, the last eight years, that it has been used for irrigation purposes?

Mr. OSBORNE. I can not give you that data.

Mr. RAKER. Can you furnish it to the committee?

Mr. OSBORNE. I think it could be obtained.

Mr. BARBOUR. There has been a surplus?

Mr. OSBORNE. Yes, sir.

Mr. BARBOUR. Is that water turned into the Los Angeles River?

Mr. OSBORNE. No. They can shut off the dams above and if there is more water than they need, they shut it off. There is no water turned into the Los Angeles River that I know of.

Mr. Chairman, if there are no further questions I should like to read a telegram which I received yesterday from the city officials of Los Angeles signed by Meredith P. Snyder, mayor of the city; Howard Robertson, president, public service commissioners; Mr. William Mulholland, chief engineer, Bureau of Waterworks and Supplies; Mr. E. F. Scattergood, chief electrical engineer, and Mr. R. L. Criswell, chairman, public service committee, city council. That telegram is as follows:

LOS ANGELES, CALIF., *October 29, 1919.*

Hon. H. Z. OSBORNE,
House of Representatives, Washington, D. C.

Passage of the bill amending the act of June 30, 1906, validating the right of way of the Los Angeles Aqueduct where the same departs from the surveyed rights of way granted by the original act, and also giving the city time to select final rights of way for the power project, is of urgent necessity. The departures from the granted aqueduct right of way are in most cases but a few feet, and in some cases consisted simply in straightening the line by tunneling through mountains instead of building around them. The departures resulted in economy of construction and in shortening the line by many miles over the distance of 70 or 80 miles. Where departures occurred the changes were all made in uninhabited desert and mountain country. The provisions of the pending act giving the city time to select final rights of way for the power project on which preliminary work is now in progress and completion of which is necessary to provide for urgent and growing demand for hydroelectric power for industrial purposes in Los Angeles vitally important.

Approximately 90 per cent of total power development in territory referred to in bill pertaining either to aqueduct or to land and rights of way was granted to city under act of 1906, and is therefore now under city control. Remaining 10 per cent on streams tributary to aqueduct supply in Owens drainage basin is logically related to city's development plan. City has already spent over $9,000,000 on power project as one based on act of 1906, relying on Government granting extension of time or otherwise protecting city's investment. Power plants are now under construction, completion of which will cost over $1,000,000 more. To keep up with demand for power it will be necessary to more than double present investment in power project in next few years. On account of corporate oposition to municipal ownership, which magnifies and takes advantage of any defect in city's rights, it is absolutely necessary that city have definite and permanent rights of way for purpose of constructing and maintaining power system. In no case do rights asked for encroach on rights of other utility corporations. City's power project, which is inseparably part of the aqueduct system, is strictly a municipal enterprise and not for profit, and there is an imperative need for perpetual rights of way.

The CHAIRMAN. In some places you run beyond the right of way granted by the act of 1906?

Mr. OSBORNE. Yes, sir; for 80 miles, either for economical reasons, cheaper construction, or geological reasons, as the hardness of the rock for tunnels, and all that sort of thing.

The CHAIRMAN. How far?

Mr. OSBORNE. In some places only a few feet and in some places several hundred feet. It is all in desert mountain country, with no value whatever.

The CHAIRMAN. What do you mean by corporate interests being against this bill?

Mr. OSBORNE. The city has been in litigation with various power corporations almost continually from the time the project was

started in 1906 and has been consistently fought by a number of the private companies dealing in public utilities.

Mr. TAYLOR. Have those suits been in the Federal or State courts?

Mr. OSBORNE. They have been pretty nearly everywhere.

Mr. Mathews has represented us and he has grown gray since they started.

Mr. MATHEWS. The suits have been in all courts.

Mr. ELSTON. That telegram which you read seemed to indicate that the bill had two objects, one to straighten the right of way, and the other to obtain additional rights of way for the power project. Are the additional rights of way for the power project entirely distinctive of what the bill provides for in the way of additional rights for power?

Mr. OSBORNE. It calls for some reservoir sites and sites for plants.

Mr. ELSTON. So the words "rights of way" would include storage reservoir sites?

Mr. OSBORNE. Yes, sir.

Mr. MATHEWS. It covers all of the things you speak of.

Mr. BARBOUR. Of course, I am not entirely familiar with the situation. Was this power project originally contemplated in the Los Angeles aqueduct proposition?

Mr. OSBORNE. Yes, sir; it was. If you will look over the bill you will find that all of these things are mentioned just as in the act.

The CHAIRMAN. The language, on page 2 of the bill, line 19, is "for power houses, diverting and storage dams and reservoirs"; that language is in the 1906 act, is it not? That is not additional?

Mr. OSBORNE. I think you will find in section 1 of the act of 1906, if the committee please, the section which I have referred to—

That there is hereby granted—

This act was approved June 30, 1906.

Mr. BARBOUR. Section one of this bill?

Mr. OSBORNE. No; section 1 of the original act.

Mr. BARBOUR. What section in this bill?

Mr. OSBORNE. The same section.

That there is hereby granted to the city of Los Angeles, Calif., a municipal corporation of the State of California, all necessary rights of way, not to exceed 250 feet in width, over and through the public lands of the United States, in the counties of Inyo, Kern, and Los Angeles, State of California, and over and through the Sierra and Santa Barbara Forest Reserves, and the San Gabriel Timber Land Reserve, in said State, for the purpose of constructing, operating, and maintaining canals, ditches, pipes, and pipelines; flumes, tunnels, and conduits for conveying water to the city of Los Angeles, and for the purpose of constructing, operating, and maintaining power and electric plants, poles, and lines for the generation and distribution of electric energy, together with such lands as the Secretary of the Interior may deem to be actually necessary for power houses, diverting and storage dams and reservoirs, and necessary buildings and structures to be used in connection with the construction, operation, and maintenance of said water, power, and electric plants, whenever said city shall have filed, as hereinafter provided, and the same shall have been approved by the Secretary of the Interior, a map or maps showing the boundaries, locations, and extent of said proposed rights of way for the purposes hereinabove set forth.

Mr. VAILE. Your descriptions of counties and national forests is not the same.

Mr. BARBOUR. It is more extensive.

Mr. OSBORNE. I am not sure, but I think that the names of some of the national forests have been changed or created by law since that bill was passed.

Mr. BARBOUR. Section 1 of this bill takes in Mono County, which does not appear in the former bill.

The CHAIRMAN. The former bill had the San Gabriel Timber Land Reserve, and lines 8, 9, 10, 11, and 12 in the bill were not in the original act. The rest is the same except the proviso at the end on page 3.

Mr. OSBORNE. Mono County—and I speak with a knowledge of local conditions, because I lived in that county six years. The bill, you will notice, excepts everything in Mono County north of the divide between the Mono and the Owens River drainage basin. There is very little of Mono County south of the divide just in that watershed. Everything north of there is excluded in Mono County in the present bill.

Mr. CHAIRMAN. I will ask that Mr. Mathews, who is the counsel for the city of Los Angeles, be heard.

Just referring to the statement about the agreement last year, the letter sent to the committee from, I think, Mr. Sanders, wherein he spoke about a mass meeting on September 27, and at that mass meeting the citizens there were still opposed to this bill. Do you know anything about that or does Mr. Mathews?

Mr. OSBORNE. Perhaps Mr. Mathews can inform you. All I know about that is that I have received various communications, quite a good many, on this subject, and just exactly what these gentlemen claim, I do not know. I presume they will explain it to the committee.

The CHAIRMAN. It would be advisable if the committee could have presented briefly before it here the issues?

Mr. OSBORNE. I really do not know, Mr. Chairman. Mr. Fritz is here. I will say in his presence that Mr. Fritz called on me in Los Angeles last August, when I was at home, and presented to me an amendment that he thought ought to be put into the bill. I read it over and I said: "I do not see anything wrong about that amendment, but I am not a lawyer. If you will go to Mr. Mathews, who is the representative of the city in these aqueduct matters and obtain his O. K., I will have no objection to that section. But he did not go, as I understand; he never went to see Mr. Mathews. As regards that particular proposed amendment that is all that I know about it.

Mr. SMITH. Do you know anything about a committee composed of officers of returned soldiers and officers representing the Inyo-Kern-Fremont-Mohave irrigation project protesting against the passage of this bill?

Mr. OSBORNE. I do not know anything about it; no.

Mr. TAYLOR. I suppose the amendment which was presented to the committee before is practically the same as they are now presenting to the committee?

Mr. OSBORNE. I will place in the record a copy of the amendment which Mr. Fritz suggested to me.

The CHAIRMAN. Please read that amendment.

Mr. OSBORNE. Yes, sir.

Suggested amendment to H. R. 406.

Add new section reading, substantially, as follows:

SEC. 9. The rights of way hereby granted to the city of Los Angeles are not exclusive and nothing in this act contained shall be construed as preventing the granting of rights of way for pipes, pipelines, canals, ditches, flumes, tunnels, or reservoirs for the conveyance, delivery, or storage of water for irrigation, mining, or domestic purposes, or the generation of electric power, under existing laws of California and the United States or that may be enacted hereafter, to any person, association, or corporation, over, through, upon, or across the lands affected thereby.

Mr. SMITH. That is the amendment offered by this association?

Mr. OSBORNE. I have not received anything further.

Mr. JOHNSTON. I have received two or three suggested amendments.

Mr. BARBOUR. Is there any objection to that suggested amendment?

Mr. OSBORNE. As I said, I am not a lawyer——

Mr. BARBOUR (interposing). As far as you personally know?

Mr. TAYLOR. I suggest that we better ask the city attorney questions on purely legal matters.

Mr. OSBORNE. Yes; on all of these legal questions. In matters of engineering I would be guided by the suggestion of Mr. Mulholland, the Chief Engineer.

Mr. BARBOUR. But simply as a practical proposition, not as a legal proposition?

Mr. OSBORNE. I understand that there was serious objection to it which I would rather have Mr. Mathews explain.

Mr. ELSTON. Is Mr. Mulholland here?

Mr. OSBORNE. No; he is not here.

Mr. RAKER. What is the amount of electric energy that has been developed?

Mr. OSBORNE. There is one unit——

Mr. RAKER. I mean now being used in Los Angeles?

Mr. OSBORNE. Thirty-seven thousand five hundred horsepower. There is another plant being constructed. Is not that so?

Mr. MATHEWS. Yes; another plant—a smaller plant which will make the total about 40,000 horsepower.

Mr. RAKER. For the city of Los Angeles?

Mr. OSBORNE. Yes, sir.

Mr. RAKER. Is that all used in Los Angeles?

Mr. MATHEWS. All except what is used in the city of Pasadena.

Mr. RAKER. How much power is used in the city of Los Angeles beyond and above that supplied under this system?

Mr. OSBORNE. There is a large amount. I can not give you the exact amount. That is only a very small part of the power that is used in the city.

Mr. RAKER. How much power is supplied to the city of Pasadena by the city of Los Angeles through its electric system?

Mr. MATHEWS. Between 3,000 and 4,000 horsepower.

Mr. RAKER. The city has the power under its charter and the laws of the State to sell its electrical energy to cities and private individuals and corporations outside of the city limits?

Mr. MATHEWS. Under the laws of the State of California and under the charter of the city of Los Angeles the surplus power, if there is any, the city of Los Angeles can turn over.

Mr. RAKER. Why is it that the city is not using its own electric energy, and is obtaining it from others and selling a part of its own?

Mr. OSBORNE. I think, so far as the city itself uses its power, that all of the city's power is used to supply all the lighting, but they had not the proper transmission plants, and I presume that in some parts of the city they have not proper transmission plants yet. They are building and buying. They paid $11,000,000 to this Southern California Edison Company for their interior system, and it is in litigation. It has been attacked in three or four different suits, and it is now in litigation. When that litigation is settled, so far as the city can take possession of those transmission lines, I have no doubt they will use all their power and, in fact, will use a great deal more.

Mr. RAKER. Then under this bill, with the extended rights over the land described in the bill, additional water rights, power lines, canals, and reservoirs, the city would be in a position to extend its system and supply not only the city of Los Angeles but all the adjacent and surrounding cities for many miles with electric energy.

Mr. OSBORNE. I do not think so, Judge.

Mr. RAKER. I say they could if they get a sufficient amount of power.

Mr. OSBORNE. If they had a sufficient amount of power; but they would not have sufficient——

Mr. RAKER. What I am getting at, Captain, is——

Mr. OSBORNE. In other words, they would not run the present companies out of business, by any means?

Mr. RAKER. That is not what I am asking at all, Captain. I do not know anything about any other companies. I simply want to know, and, of course, if it is not in your mind, the question does not need to be answered; but under the present status of the aqueduct in Los Angeles and its method of handling it, and its right to handle it under the charter and the laws of California, it is in a position to furnish to any and all municipalities in California that it may see fit to put its lines through——

Mr. OSBORNE (interposing). It could furnish power, as I understand, under the laws of California, to anybody that wanted power. They could furnish it to anybody that needed power and wanted it, just like any other corporation.

Mr. MAY. Can the total head available be utilized?

Mr. OSBORNE. How do you mean?

Mr. MAYS. I understand you have a total head of about 4,000 feet.

Mr. OSBORNE. That is an engineering question, and I would not like to give what would seem to be a dogmatic answer to it. I do not think it could all be utilized, because, of course, much of it stretches along comparatively level country in the mountains. There is a lot of level country, and I presume it could not all be utilized; but that is an engineerng question.

Mr. MAYS. Do you have a market for all the power you generate?

Mr. OSBORNE. Yes.

Mr. MAYS. And you would sell to outsiders or private individuals a portion of it?

Mr. OSBORNE. Yes; we sell to manufacturing plants and to the shipping industry down at Los Angeles Harbor. We have two large steel shipyards down there, and they are supplied with power from

the city, and we furnish it to anybody who is in business. You understand, we do a pretty big manufacturing business in Los Angeles. In the year ending the 30th of last June we did $369,000,000 of manufacturing in Los Angeles, and you will see that that means a large use of power. In my opinion, our putting in that power is not going to damage the private companies a bit. They are going to have use for all their power; and I presume that much of their opposition comes from the idea that they are going to be injured.

Mr. RAKER. I do not know, Captain, what the facts are, but, solely for information, I would like to ask whether you are in shape to advise the committee about this matter? Do you understand that under this bill now pending before the committee the city of Los Angeles desires to store and divert through the intake more water than it has been diverting and conducting through the aqueduct for the last two or three years, or even during the last year?

Mr. OSBORNE. Well, I suppose that as the lines are extended—you understand, we have a number of small towns in Los Angeles City. They are joining the city quite frequently, and I suppose there would be a little more required for those adjoining cities. For instance, we have not introduced aqueduct water into quite an important part of Los Angeles as yet; that is, the Los Angeles Harbor district. We have not this water in there yet, and there probably will in the future be more water used than we are using now. We are only taking such water as we need for present purposes.

Mr. RAKER. And you say that it is the intention under the bill to acquire by appropriation and storage, for the purpose of conducting it through the aqueduct, more water than has been appropriated and conducted through the reservoir?

Mr. OSBORNE. I do not know about that.

Mr. RAKER. I was simply seeking information.

Mr. OSBORNE. I really do not know. We have a certain capacity in the reservoir, and I presume we are entitled to use water up to that capacity; that is, if we have the title to the water, and we have to go in and get that just like anybody else, just like these other gentlemen who are represented here. If they have water there they have a right to-day, and have had for the last year, to come in and take that water and appropriate it, and we have the same right.

The CHAIRMAN. Captain, the committee received a letter from F. J. Sanders, member of the executive committee of the Inyokern-Fremont and Mojava Valleys Irrigation Co., dated October 23, in which he makes this statement:

You are no doubt familiar with the fact that the city of Los Angeles, through its present aqueduct, which is about 250 miles in length, is now taking water from a section of country far north of the city, from a vast watershed, thus depriving a rich section of the very water to which it is rightfully entitled.

Now, this is the part to which I direct your attention:

It is a recognized and established fact that the principal part of this water is now being used in San Fernando Valley for irrigation purposes, this land having been purchased just prior to the completion of the aqueduct by certain wealthy capitalists in Los Angeles for almost nothing, and thousands of acres then purchased are now being sold for from $400 to $600 an acre. In order to allay the suspicion of the Los Angeles people and to obtain their support of the project in the beginning, it was a part of the charter that this water was to be used in and for the city only. Later, through the influence of certain publications and those interested, the city limits were extended to include

San Fernando Valley, thus making the city of Los Angeles with a population of 400,000 larger in area than New York City with its 7,000,000 people. This very water which is being used for irrigation over 100 miles south of us, passes right at our door and through our fertile valley, now a desert.

What do you say about this claim that the greater part of this water is being used for irrigation purposes in San Fernando Valley?

Mr. OSBORNE. I could not give you the figures on it. I know there is water used in that valley and there is water used in the city. There are, I think, two large reservoirs in that valley and the water comes from those reservoirs on to the city, and how much is used there I do not know. But that territory is within the city limits. They say "it was bought up for a song." The land has always, since I have been in that country, been pretty high. I do not know what the land costs or as to the quantity of water that may be used in that valley. But it is within the city limits of the city of Los Angeles and is a part of the city.

The CHAIRMAN. And is embraced in the city limits?

Mr. OSBORNE. Yes; and it is mighty well settled. You have been there and you probably know that that is a thickly settled valley, with a dozen prosperous towns in the valley and thousands of people. That is in Mr. Randall's district and he probably can tell you better about that.

Mr. SMITH. You mean a dozen towns within the city limits of Los Angeles?

Mr. OSBORNE. Yes.

Mr. MAYS. Captain, do you know how much they get for this power when they sell it?

Mr. OSBORNE. No, sir; I do not.

Mr. BARBOUR. I would like to ask this question along the line of the question propounded by the chairman. Did the original grant of these rights to the city of Los Angeles provide that any of this water should be used for irrigation purposes? Just how were those rights described and what is the language? I am not familiar with that. Was it, as Mr. Sanders points out in his letter, to be used for domestic purposes? Was there a limitation of that kind placed on the use of the water?

Mr. MATHEWS. Not at all.

The CHAIRMAN. The Government could not place any such limitation.

Mr. OSBORNE. No. The Government could not.

Mr. BARBOUR. That is what I wanted find out.

Mr. OSBORNE. No; there is no such limitation in the act.

Mr. VAILE. How was it that you did acquire the use of this water for irrigation in the present city limits of Los Angeles. Was that under the State irrigation laws of the State of California?

Mr. OSBORNE. Now, you are a lawyer and I am not, and I will have to turn over such questions as that to Mr. Mathews, who is here for that purpose.

Mr. VAILE. At all events, it was not by any grant from the Government.

Mr. OSBORNE. I am sure you do not want to put me at any disadvantage in asking me legal questions.

Mr. VAILE. Not at all.

The CHAIRMAN. Probably we can get that information from Mr. Mathews better than from Mr. Osborne.

Mr. OSBORNE. Yes; I think so.

The CHAIRMAN. Mr. Mathews, we will be glad to hear you.

Mr. MATHEWS. Mr. Chairman, will you let Mr. Randall, who represents this part of the city of Los Angeles, be heard next.

STATEMENT OF HON. CHARLES H. RANDALL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA.

Mr. RANDALL. Mr. Chairman, I do not want to go into any details and will only take a few minutes. I want the committee to understand exactly what this fight is and has been for 10 years. It is nothing but a fight between the municipality of the city of Los Angeles and the private power companies. There is no use of camouflaging the thing. The Los Angeles aqueduct proposition is the third largest municipal water enterprise in the world, but added to it is the power generation feature, which, of course, belongs to the city of Los Angeles, and that is where the rub is. The power companies do not want the city of Los Angeles to generate power and light and to use it in the city of Los Angeles, and consequently the power companies have fought this from the start.

The CHAIRMAN. Do you mean, Mr. Randall, that the power companies are behind these people who make representations concerning the irrigation development?

Mr. RANDALL. Oh, most of them. For instance, Mr. Chairman, every man who is named here as a witness against this bill, with the exception of one or two, I think, was here last year when we wrote the bill and agreed to every word that has been written in it.

When the campaign was opened for the building of the aqueduct 10 years ago——

Mr. RAKER (interposing). Mr. Randall, in fairness to yourself, I think I ought to state that my recollection is that there is only one man here who was here last year, and that is Mr. Adams.

Mr. RANDALL. Yes; Mr. Adams is here.

Mr. KETTNER. Mr. Chairman——

Mr. RANDALL. I say, with exceptions.

Mr. KETTNER. Mr. Chairman, just one moment. There is only one gentleman here who was here a year ago. Mr. Dixon was not here, Mr. Fritz, and there is only one gentleman who was here.

Mr. RANDALL. I made the statement in the beginning that there was one or two exceptions. There may be two exceptions.

Mr. ELSTON. Just a moment. With regard to Mr. Adams, I think in justice to him it need not be said that he was opposing the bill. He presented a request here, a reasonable request, as to rights which he had initiated prior to the Los Angeles rights, which were granted freely by the city.

Mr. RANDALL. Yes, sir; in the other bill, and now he is named as a witness opposing the bill.

Mr. ELSTON. Oh, no; he is not opposing it.

Mr. RANDALL. The records of the committee show that. The gentleman who represents the opposition gave his name as a witness.

Mr. ELSTON. I feel in justice to Mr. Adams——

Mr. VAILE. His testimony will show his position.

Mr. ELSTON. Yes; his testimony will show that.

Mr. RANDALL. I do not want to make a statement reflecting on any man who is here in opposition. I notice there are some men here who were here last year and agreed to the bill as it has been written. There are some additional witnesses whose testimony, of course, will be worth what the committee estimates it is worth, but what I am trying to impress upon the committee is that the city of Los Angeles has been in the courts for 10 years with the power companies, and they appear sometimes in their own name and sometimes through camouflage, and they appear before committees of Congress all the time in a camouflaged way and not in their own name.

To prove that situation, when the campaign was begun to build this aqueduct and the power companies saw it would be inevitable that some project of this kind would go through, they actually made a proposition to the city of Los Angeles that if the city would allow them the power rights in the aqueduct they would be willing to build the aqueduct and give it to the city of Los Angeles free. You can see from that the value which the power companies placed on the municipal lighting project and the right to generate power through this system. The people of Los Angeles refused that proposition and have been in a fight with the power companies ever since. I do not think there is anything further I want to say except that I want the committee to realize——

Mr. BARBOUR. Do not the people who own these companies live in Los Angeles?

Mr. RANDALL. Yes; and they bought up one of the leading newspapers of the city of Los Angeles to conduct the fight against the bonds to build the aqueduct, and that newspaper died a miserable death very shortly after the election. The people of Los Angeles are committed to this project. They have fought the power companies in the courts and in the elections ever since the project has been started.

Mr. VAILE. How do you know they used funds improperly for the purpose of influencing this newspaper?

Mr. RANDALL. Well, we know it in Los Angeles. Of course, we can not bring that evidence here. I will be glad to answer any questions with reference to this thing. Capt. Osborne was asked a question concerning the irrigation in San Fernando Valley. Of course, Mr. Mathews knows more about that than I do. My understanding is that the water which is owned by the city of Los Angeles must first be used for domestic uses whenever necessary. Of course, if any surplus water comes down there, instead of wasting it, it is used in the city of Los Angeles for irrigation purposes, but that would have to be discontinued whenever the water was required for domestic purposes.

Mr. ELSTON. I would like to ask you this question: Is it conceivable that in the zone in which the city of Los Angeles now is developing this water and these power possibilities that individuals or corporations were in that territory prior to the time the city got there, and that they had initiated rights and were developing projects, and is it not a reasonable thing to say that they, at least, are engaged in a worthy purpose in seeing that their legitimate rights and opportunities for outlets on projects which they have developed are safeguarded?

Mr. RANDALL. Certainly. The city is not jeopardizing anything that these private power companies own. The fact of the matter is, if I am not misinformed, the Edison people now find it necessary to buy some power from the Los Angeles city power plant in order to fill its demands.

Mr. ELSTON. Would you so characterize any company or person who is here, not to oppose the bill but merely to draw attention to a project which he had initiated prior to the city's project, and asking that something reasonable be done with respect to his project, which does not interfere with the operations of the city, but which would give him opportunity to develop that which he had obtained properly under the law?

Mr. RANDALL. I have not made any such charge. I have not even imputed any wrong motives to the private power companies. I have simply stated that they have opposed the project of the municipality of Los Angeles.

Mr. ELSTON. I think you will find all the committee absolutely disposed to give a most sympathetic hearing to the claims of a large city comprising a tremendous number of people, and they will not be very sympathetic about the claims of private individuals who want to cut that down for their own profit and not in pursuance of some legitimate purpose.

Mr. RANDALL. I am very sure of that.

Mr. ELSTON. But these private interests have a right to be heard.

Mr. RANDALL. I am very sure that the city of Los Angeles will be satisfied with that kind of consideration.

The CHAIRMAN. Mr. Sanders, in writing as a member of the executive committee of the Inyokern-Fremont-Mojave Irrigation Co., makes this statement:

> However, we, the citizens of Inyokern, Fremont, and Mojave valleys have organized an irrigation project for the purpose of irrigating the three valleys which include an acreage of 270,000 acres of fertile, level land, well adapted to irrigation.

Do you know anything about this proposition as to whether it is a bona fide one or just a paper one.

Mr. RANDALL. I have never heard of it, but I do not think anybody would oppose their proposition. The question of water is not involved here at all, as I understand it.

The CHAIRMAN. They make certain representations and I was wondering whether or not, in your opinion, they are a tool of the power companies.

Mr. RANDALL. I do not know anything about it. I never heard of them before, and they did not send it to me. Because they send that communication here would be no reason why I should intimate that they are a tool of the power companies. I do not say that every one who wants changes in this bill is a tool of the power companies, by any means, Mr. Chairman. The reference I made in the beginning was intended only to apply to men who did appear here last year and who agreed upon the wording of the bill, and who are now here and whose names have been given as witnesses against the bill.

The CHAIRMAN. He says that nothing less than this proposed amendment will protect their interests.

Mr. RANDALL. I have not seen their amendment, but their interest ought to be protected. I do not think the city of Los Angeles is endeavoring——

Mr. SUMMERS. I would like to ask the question if there is anything more involved than the correction of a right of way.

Mr. RANDALL. I understand there is nothing but the correction of the right of way and the acquirement of reservoir sites involved in this bill. The aqueduct, as you of course know, has already been built and is in use; but it was necessary to go outside of the original right of way granted across the desert to economically construct the aqueduct, and this is simply a correction which will also include reservoirs for storage of water and rights of way for power lines.

Mr. VAILE. Is there anything in this bill except the legalization of the present location of the aqueduct and reservoirs?

Mr. RANDALL. That is a matter for the attorney of Los Angeles to answer. Of course, I would not attempt to answer that.

Mr. MATHEWS. That is true as to the aqueduct.

Mr. ELSTON. Of course, the crux of this whole proposition is how the city wishes to get these power sites and reservoir sites. It could get them by immediate application, defining what they want and thereby notifying other persons interested in that region as to what territory is appropriated, but I understand that this bill——

Mr. RANDALL (interposing). If you will let me interpolate there, that brings this to mind: You say we can file to-day. These gentlemen all have perfect rights to file and have had them for 10 years.

Mr. ELSTON. I am telling you what the controversy is. My attitude last time was in favor of the city having more than the mere right immediately to select these power sites and reservoir sites within this region. The committee at the last session granted them an inclusive, blanket option on territory as big as the State of Massachusetts for a time in the future, and to the extent that they had that option, it closed every other individual operating in that territory from making any application of any kind, closing the gates to every opportunity to develop any private enterprise until the city had exercised its option under this blanket authority. Now, that was a thing which the committee considered, and upon the application of a few gentlemen here who did not want this cloture to cover this tremendous territory until, at least, they had had their outlets and their rights of way for their legitimate projects—we heard those gentlemen and put in an amendment which seemed to be satisfactory to them by which they would get their legitimate objects. Thereupon we closed the whole area and gave rights to the city of Los Angeles which did not include definite projects, but included an option over a great Commonwealth.

The CHAIRMAN. A roving commission?

Mr. ELSTON. A roving commission to go wherever they pleased, and to that extent stopped even the building of a little miner's ditch. Of course, that was a very inclusive thing. We gave to the city everything they wanted and we are prepared to do that now.

Mr. RANDALL. You understand very well why a city would ask a privilege of that kind.

Mr. ELSTON. I understand that, and we gave it.

Mr. RANDALL. You understand the attitude of certain private interests who want to block the city.

Mr. ELSTON. We gave them those rights in the bill and I think we ought to stay by the bill.

Mr. RANDALL. I will not attempt to discuss the legal questions involved, because the legal representative of the city should discuss those.

Mr. OSBORNE. Mr. Chairman, I hope the committee will not get the idea that we are in any wise criticizing the committee, as Mr. Elston's remarks would indicate.

Mr. ELSTON. Oh, no; but I wanted him to know that the committee gave the city of Los Angeles a tremendous thing, and tried to safeguard certain legitimate claims. Now, it is not inconceivable that there might be some other individuals who are not conflicting with the city but who might still want some little definition of their outlets before this blanket option goes on, and I should say that that is not unreasonable.

Mr. RANDALL. Certainly not.

Mr. BARBOUR. I have had a letter to the effect that there is a large surplus of water coming down through this aqueduct and being turned into the Los Angeles River. Do you know anything about that?

Mr. RANDALL. I could not answer that question. I have not been out there much for four years.

Mr. BARBOUR. I asked Capt. Osborne and he said he did not think there was.

Mr. RANDALL. Mr. Mathews can probably tell you about that.

Mr. RAKER. Mr. Randall, a letter came to me, as a member of the committee, I think, from this Inyokern-Fremont-Mojave Irrigation Co. which, as I understand it, has been organized under the laws of the State of California for the development of about 270,000 acres of land. Is there anything in the statement that Los Angeles, after the first grant in 1906, extended its boundaries to include some 20,000 acres of farming land?

Mr. RANDALL. No. The city of Los Angeles can not extend its boundaries a foot. The people who live in the territory adjacent to Los Angeles have the power, under the laws of the State of California, to choose to annex their territory to the city of Los Angeles, but the city of Los Angeles has not anything to do with that.

Mr. RAKER. Was there annexed to the city of Los Angeles any considerable territory of farming land?

Mr. RANDALL. You might call some of it farming land.

Mr. RAKER. Approximately how much was it?

Mr. RANDALL. I do not know about that.

Mr. RAKER. Known as the San Fernando Valley?

Mr. RANDALL. Yes. The San Fernando Valley contains seven or eight very prosperous cities and some agricultural lands.

Mr. RAKER. For our information, are you in position to give the committee the territory involved?

Mr. RANDALL. There is some agricultural land also in the original city of Los Angeles.

Mr. RAKER. Are you able to tell us the territorial extent of the land that was added to the city of Los Angeles.

Mr. RANDALL. I am not familiar with that. I do not know what the point in that question would be. These people who came into the city of Los Angeles, and are getting this water, are very fortu-

nate people, and if it were possible to annex Modoc County, it would be a great thing for Modoc County.

Mr. MAYS. Any danger of taking in Susanville?

Mr. RANDALL. And if we could go across and take in Salt Lake City it would be a wonderful advertisement for Salt Lake City.

Mr. RAKER. Seriously speaking, do you know of any method by which the committee can obtain that information?

Mr. RANDALL. Yes, sir; if you will ask the next witness, you will get all of that information.

Mr. RAKER. I understand that your idea of this bill, as a representative from Los Angeles, is that they are not seeking any water development for irrigation under the present bill.

Mr. RANDALL. The question of water is not involved here at all, as I understand it. The city owns the water.

Mr. TAYLOR. Mr. Chairman, I cautioned one of the other gentlemen from California that I did not think it was fair to ask people who were not lawyers legal questions which might bind the city, and for that reason it seems to me it is not fair to either the witness or the city of Los Angeles to ask these legal questions of men who are not lawyers.

The CHAIRMAN. It is the privilege of the witness to State his information or knowledge.

Mr. RAKER. The witness will protect himself, and I am simply seeking information.

Mr. SMITH. Mr. Mathews is the man who can give it to you.

Mr. JOHNSON. Let us hear Mr. Mathews.

Mr. RAKER. I am going to ask the gentleman a few questions about this matter, because I would like to understand the purpose and purport of the bill, and Mr. Randall has given the matter consideration, and, being unfamiliar with it, and he being familiar with it, if I can get the information, of course, I would like to have it.

Mr. MAYS. He is the best posted man here on water, anyway, is he not?

Mr. RANDALL. I have said the matter of water was not involved. That has already been settled both here in Washington and in California.

Mr. TAYLOR. And if it was not, it would be settled under the State law and not by this committee.

Mr. RAKER. Under the prior bill of 1906 certain rights were extended, and because of the statement you have made as to what occurred last year when the bill was considered, I would like to ask whether or not you understand whether it is a fact or not that there is any desire to acquire rights of way, reservoirs and so forth for the purpose of diverting more water.

Mr. RANDALL. I have said several times that I would prefer you ask the attorney for the city those questions.

Mr. RAKER. All right. Then I am satisfied not to ask any more questions.

STATEMENT OF MR. W. B. MATHEWS, LOS ANGELES, CALIF.

The CHAIRMAN. Mr. Mathews, I wish you would state who you are and your residence, and the position you occupy.

Mr. MATHEWS. Mr. Chairman, my name is W. B. Mathews; I reside in Los Angeles, Calif., and my relation to this matter is that of special cousel to the city of Los Angeles. I became special counsel because I was city attorney when the aqueduct enterprise was initiated, and the city saw fit to keep me in the work after my term of office expired. I am on a salary and it makes no difference personally one way or the other as to the outcome of the measure. There is no compensation or commission to me that depends on the result of the hearing here. My address in Los Angeles is 645 South Olive Street, which is the headquarters of the water and power departments of the city.

Dealing with Judge Raker's last question, first, because that question was asked at the former hearing and is a pertinent question, as I look at it; that is, whether the city desires under this bill or under the law which is contemplated by the bill, to obtain additional water or to divert additional water for its purposes, I can say positively that it does not.

The bill is an amending bill, affecting the act of 1906. Since 1906 the forest reserves affected have been changed, involving the necessity of making changes in this bill to conform with the changes of name.

The CHAIRMAN. Will you please show us, by taking up the bill, what changes are suggested, referring to the section of the bill and the line?

Mr. TAYLOR. Tell us all about this bill, and what it means, and what Los Angeles wants, and what you want it for; and why do you come to Congress. Assume that we have never had any other meeting on this bill before and do not know anything whatever about it, because over half of this committee are new Members on the committee, who were not here at the former hearing during the last Congress.

Mr. RAKER. And some of the old Members.

Mr. TAYLOR. Yes; some of the old Members were not at all of the hearings before.

Mr. MATHEWS. I might say this at the outset, that the water supply that the city obtains comes from Owens River and certain small tributary streams discharging into the Owens River drainage basin. Owens River is a nonnavigable stream confined entirely to the counties of Mono and Inyo in California. Mono County is adjacent to and to the north of Ingo County.

Mr. TAYLOR. That is where the water comes from?

Mr. MATHEWS. Yes. Owens River originates in Mono County and runs down into Inyo County and discharges into Owens Lake. That is a soda lake, and has no outlet. The aqueduct taps the river before it gets to Owens Lake at a point about 40 miles above the lake. The aqueduct begins at a point about 240 miles from the city hall of the city of Los Angeles and terminates in what is known as San Fernando Valley, out of which valley the city for over 100 years has been obtaining water for the use of its inhabitants. That is the source that the city of Los Angeles had been dependent upon until the aqueduct was completed. That river rises out of the ground in San Fernando Valley and flows down in a southeasterly direction to and through the old part of the city. Until the city got up to

a population of 300,000 it was sufficient to supply the city. When the city passed that mark it became necessary for it to go elsewhere to get an additional supply. I might state, in passing, just to let you know of the practical considerations affecting the physical situation there, the irrigation of the lands in San Fernando Valley, which is now a part of the city, has this advantage to the city, a large part of the water after being used, so far as not consumed or lost in evaporation, sinks into the ground and mingles with the original sources of supply from which the city for more than one hundred years has been drawing its water, and so we are enabled to use the same water more than once by reason of that physical condition.

Besides that fact, the city had to meet the question as to what it should do with its surplus supply from the aqueduct until it should grow to the point of needing it. In order to preserve and protect its rights, it appears necessary, as far as practicable, to put it to a beneficial use. It was decided by the city authorities that since San Fernando Valley was adjacent to the city and was eligible for annexation to the city and already contained several thousand people whose interests were linked with those of the city, the best place to make use of the surplus supply of the aqueduct, or a considerable portion of it, was in that valley. However, the city required the annexation to the city of that portion of the valley into which the water was to be introduced, and also an assumption by it of a proportionate share of the aqueduct debt.

The city, in determining where and how to use its surplus aqueduct supply till needed, decided that it would be wholly unwise to permit it to be used on lands which in all likelihood would never become part of the city. It seemed to the city authorities to be contrary to good policy and the public interests to put it on lands outside of the city from which it would in time have to be taken when the water should be required in the city.

Then, as already stated, the use of the water in San Fernando Valley enables the city to recapture and use again a portion of it lower down.

The CHAIRMAN. How do you use it over?

Mr. MATHEWS. A portion of the aqueduct water, after being used for irrigation in San Fernando Valley, sinks into the ground and mingles with the subterranean waters from which the city, by means of galleries and tunnels, diverts water for use in sections of the city which could not be reached by the aqueduct supply directly——

Mr. SMITH. You first use it for irrigation and later for domestic purposes?

Mr. MATHEWS. We use a portion for domestic purposes and a portion for irrigation. I am speaking now of the recapture and use for domestic purposes of a portion of the aqueduct water, primarily used for irrigation. It sinks into the ground and we take a portion of it again by means of tunnels. Furthermore, the Los Angeles River is fed and sustained by underground waters in San Fernando Valley coming originally from the aqueduct.

Mr. TAYLOR. The return water?

Mr. MATHEWS. The return water, as the irrigationist would characterize it.

The CHAIRMAN. And filter it?

Mr. MATHEWS. We do filter it, and it is all right because we were supposed to have one of the best health records in the country.

Mr. MAYS. Do you pump it?

Mr. MATHEWS. Yes, sir; that is, a considerable portion of the water taken from the Los Angeles River has to be pumped to reach the higher levels of the city.

Mr. OSBORNE. This water passes through gravel and comes up pretty well filtered, naturally filtered.

The CHAIRMAN. That is largely north of the city?

Mr. MATHEWS. Northwest.

The CHAIRMAN. And at a higher elevation?

Mr. MATHEWS. Yes, sir.

Mr. VAILE. The Owens River flows into this lake?

Mr. MATHEWS. Yes, sir.

Mr. VAILE. And the water that you take out of San Fernando Valley is water which has passed through the lake?

Mr. MATHEWS. No. As I said, Mr. Vaile, the aqueduct taps the Owens River at a point about 40 miles above the lake.

Mr. TAYLOR. And prevents the water going into the lake?

Mr. MATHEWS. Yes, sir. After being diverted from the river it is carried in the open aqueduct down for 60 miles and discharges into what is known as the Haiwee reservoir, which is a reservoir below Owens Lake. Then, the water is taken out of the reservoir and carried down through the southerly end of Inyo County and through Kern County, passing near the town of Mohave, thence through the mountains to and into Los Angeles County. It crosses the boundary line of Los Angeles County at a point 60 miles from the city of Los Angeles, and from there it passes through mountains down to San Fernando Valley, running through a section where the city has its power plants, one in operation and one in course of construction.

San Fernando Valley is shaped something like a pear lying to the northwest of the older part of Los Angeles, the narrow portion of the valley being at its southeasterly end. Water used in the upper or northwesterly end of the San Fernando Valley tends, because of the difference of elevation, to percolate down toward the southeasterly end of the valley, where it is contiguous to the old portion of the city. San Fernando Valley, as has been stated, is a valley with a great many little towns in it of several hundred population, with banks, stores, and local interest, besides the exceedingly important agricultural interests of the valley.

The original bill, in the first section, confined the city, according to its words, to Inyo County, Kern County, and Los Angeles County, but in the fourth section, if you will take the pains to read it, it is provided that the Government, if a certain reclamation project which had been contemplated in Inyo County, should be abandoned, might dispose of the lands which had been withdrawn in connection with that project, to the city in connection with its water and power enterprise.

The CHAIRMAN. You do not seek a change of the fourth section?

Mr. MATHEWS. No, sir. It provided that, in case of such abandonment, the city should reimburse the Government for the amount expended in connection with that project, and we paid the Government $14,000 in pursuance of that provision, and should have the

right to purchase from the Government, at $1.25 per acre, lands which had been withdrawn for the purposes of such project. In pursuance of that provision the city also purchased, for use in connection with its water and power projects, many thousands of acres of land, of which a part are situate in Inyo County and a part in Mono County. The effect of that was to extend our project into Mono County. For that reason the bill, in providing for an extension of time, applies to Mono County as well as Inyo, Kern, and Los Angeles Counties. But it is nevertheless true that we do not want to acquire additional water rights. We have lands in the two counties, Inyo and Mono, for water and power purposes. The city has paid something like $1,500,000 for lands, rights of way, and water rights in those counties.

The CHAIRMAN. In Mono and Inyo Counties?

Mr. MATHEWS. Yes, sir; and in this way and through appropriations we have obtained enough water to fill our aqueduct, which has a capacity of between 400 and 425 second-feet.

The CHAIRMAN. How many gallons would that be?

Mr. MAYS. There are 7½ gallons to a cubic foot.

Mr. MATHEWS. Four hundred second-feet of water is, I believe, equivalent to about 260,000,000 gallons for one day.

The CHAIRMAN. Some of us are more familiar with cubic feet and second-feet than we are with miner's inches.

Mr. MATHEWS. In California, under a statute, a second-foot is equal to 40 miner's inches. Formerly a second-foot equaled 50 miner's inches.

Mr. BARBOUR. I think we all understand gallons better.

Mr. MAYS. When you say 20,000 miner's inches, you are figuring on 50 miner's inches to a second-foot?

Mr. MATHEWS. Yes, sir.

For the convenience of the committee and all persons interested, I will insert in the record at this point, page 14 and a portion of page 15, of Water Supply Paper 269, issued by the United States Geological Survey, giving water equivalents, as follows:

"Acre-foot" is equivalent to 43,560 cubic feet, and is the quantity required to cover an acre to the depth of 1 foot. It is commonly used in connection with storage for irrigation work.

CONVENIENT EQUIVALENTS.

The following is a list of convenient equivalents for use in hydraulic computations:

1 second-foot equals 40 California miner's inches (law of March 23, 1901).
1 second-foot equals 38.4 Colorado miner's inches.
1 second-foot equals 40 Arizona miner's inches.
1 second-foot equals 7.48 United States gallons per second; equals 448.8 gallons per minute; equals 646272 gallons for one day.
1 second-foot equals 6.23 British imperial gallons per second.
1 second-foot for one year covers 1 square mile 1.131 feet or 13.572 inches deep.
1 second-foot for one year equals 31,536,000 cubic feet.
1 second-foot equals about 1 acre-inch per hour.
1 second-foot for one day covers 1 square mile 0.03719 inch deep.
1 second-foot for one 28-day month covers 1 square mile 1.041 inches deep.
1 second-foot for one 29-day month covers 1 square mile 1.079 inches deep.
1 second-foot for one 30-day month covers 1 square mile 1.116 inches deep.
1 second-foot for one 31-day month covers 1 square mile 1.153 inches deep.
1 second-foot for one day equals 1.983 acre-feet.
1 second-foot for one 28-day month equals 55.54 acre-feet.

1 second-foot for one 29-day month equals 57.52 acre-feet.
1 second-foot for one 30-day month equals 59.50 acre-feet.
1 second-foot for one 31-day month equals 61.49 acre-feet.
100 California miner's inches equals 18.7 United States gallons per second.
100 California miner's inches equals 96.0 Colorado miner's inches.
100 California miner's inches for one day equals 4.96 acre-feet.
100 Colorado miner's inches equals 2.60 second-feet.
100 Colorado miner's inches equals 19.5 United States gallons per second.
100 Colorado miner's inches equals 104 California miner's inches.
100 Colorado miner's inches for one day equals 5.17 acre-feet.
100 United States gallons per minute equals 0.223 second-foot.
100 United States gallons per minute for one day equals 0.442 acre-foot.
1,000,000 United States gallons per day equals 1.55 second-feet.
1,000,000 United States gallons equals 3.07 acre-feet.
1,000,000 cubic feet equals 22.95 acre-feet.
1 acre-foot equals 325,850 gallons.
1 inch deep on 1 square mile equals 2,323,200 cubic feet.
1 inch deep on 1 square mile equals 0.0737 second-foot per year.
1 foot equals 0.3048 meter.
1 mile equals 1.60935 kilometers.
1 mile equals 5,280 feet.
1 acre equals 0.4047 hectare.
1 acre equals 43,560 square feet.
1 acre equals 209 feet square, nearly.
1 square mile equals 2.59 square kilometers.
1 cubic foot equals 0.0283 cubic meter.
1 cubic foot equals 7.48 gallons.
1 cubic foot of water weighs 62.5 pounds.
1 cubic meter per minute equals 0.5886 second-foot.
1 horsepower equals 550 foot-pounds per second.
1 horsepower equals 76.0 kilogram-meters per second.
1 horsepower equals 746 watts.
1 horsepower equals 1 second-foot falling 8.80 feet.
1⅛ horsepower equals about 1 kilowatt.
To calculate water power quickly:
To calculate water power quickly; $\frac{\text{Sec.-ft.} \times \text{fall in feet}}{11}$=net horsepower on water wheel realizing 80 per cent of theoretical power.

Mr. MATHEWS (resuming). As I stated before, by some process for which we were not responsible, the names of the forest reserve contained in the original act have been changed, and the Department of Agriculture to which this bill was referred for a report, suggested the present names.

The CHAIRMAN. You eliminate the Sierra and the San Gabriel Timber Land Reserve and in lieu of that designation you insert the other designation in lines 7, 8, 9, 10, 11, and 12?

Mr. MATHEWS. Yes, sir.

Mr. TAYLOR. And that is not significant, except that you have made these changes to conform to the changes of names which have been made since 1906 by the Forest Service itself, the territory remains the same?

Mr. MATHEWS. Yes, sir. I might say this further, that as the result of amendments inserted by the committee in the last Congress we are in a very much more restricted situation than we were under the original act; our situation is very much more restricted.

Mr. KETTNER. Pardon me a moment—I know that you do not want to make a misstatement. The bill as originally introduced took in a great deal more territory, but the committee amended it as it is at present. This committee took out a great deal of territory at the last hearing before the bill was reported.

Mr. MATHEWS. The bill as introduced in the Sixty-fifth Congress included lands in Mono County. It also included lands in the counties to the south. It also named certain forest reserves, but at the instance of the honorable gentleman from San Diego, the committee made certain changes in the bill affecting forest reserves in his district and in the vicinity of Los Angeles, which we agreed to.

Mr. TAYLOR. By reason of the activities of the gentleman from San Diego (Mr. Kettner)?

Mr. MATHEWS. He was looking after his district as usual, and we felt that his point was well taken.

The present bill confines the city of Los Angeles to the drainage basin from which it draws its aqueduct supply and to the territory to the south through which the aqueduct runs on its way down to Los Angeles. As I said, the aqueduct starts at a point about 4,000 feet above sea level and at its southerly terminus it is about 1,000 feet above sea level. The descent of the aqueduct from the higher to the lower elevation affords opportunities for the development of electric power, which the city wishes to utilize, and we want the privilege to utilize this water for the purpose of generating power.

The CHAIRMAN. Please just take up section by section and explain the differences.

Mr. MATHEWS. The fourth section?

The CHAIRMAN. Yes, sir; that is in bill 406.

Mr. MATHEWS. Yes, sir; I will do that, gentlemen.

The CHAIRMAN. And show us just where the changes occur. You have gotten down to line 12 on page 2 of the bill.

Mr. MATHEWS. That is, after you have named the forest reserves and the timber land reserve in describing the territory through which we are to pass, we come to the purposes of the grant in line 12, "for the purpose of constructing, operating, and maintaining canals, ditches," etc.

The CHAIRMAN. That is the same as the original act, from line 12 to line 3 on page 3?

Mr. MATHEWS. It is exactly the same as the old act. We did not intend to change that language at all.

In line 3 on page 3 we begin with a proviso which modifies what had already been granted to us, as follows:

Provided, however. That the grant hereby made shall not apply to lands located in the drainage basin of Kern River or in that portion of Mono County lying north and west of the Owens River drainage basin, or to lands located upon Bishop Creek or its branches in Inyo County, or to lands in the Fish Slough Reservoir site in the counties of Inyo and Mono, in said State.

The CHAIRMAN. All that you have read is entirely new?

Mr. MATHEWS. That is not entirely new. The exception, "lands located upon Bishop Creek or its branches in [illegible] tained in the act of 1906, at the end of section 4 thereof, but as the result of oposition and requests and suggestions made, including recommendations made by the Departments of the Interior and Agriculture, that exception was broadened so as to include the entire drainage basin of Kern River, which is to the west, and the drainage basin of Mono Lake, which is to the north, also of the Owens River drainage basin, what is known as the Fish Slough Reservoir.

Mr. VAILE. Those exceptions in the original act do not appear in section 1 of this bill.

The CHAIRMAN. From line 3 to line 9 is entirely new matter from the act of 1906.

Mr. CONSAUL. The exception as regards Bishop Creek we had under section of the original act.

Mr. MATHEWS. At the end of section 4 we have this proviso:

Provided, however, That the terms of this act shall not apply to any lands upon Bishop Creek or its branches in said county of Inyo.

I might state this if you will permit me, Mr. Chairman, that the reason for the exception was this.

The CHAIRMAN. The exception in this act?

Mr. MATHEWS. In the old act. When we went into Owens Valley we found that certain power interests had started their enterprise on Bishop Creek, which is the principal tributary of Owens River. Their representatives appeared before the Public Lands Committee of the House and opposed the passage of our bill, because it covered that creek as well as other creeks in the Owens River drainage basin. Those parties stated to the committee that if Bishop Creek and its tributaries were excepted from our bill they would have no opposition and, accordingly, we agreed to make that exception from the bill resulting in the act of 1906. The power interests referred to consisted of certain Colorado parties.

Mr. TAYLOR. Did the Colorado people have a prior right under the law?

Mr. MATHEWS. They were power people only.

Mr. TAYLOR. I mean a prior right as to the use of its water or its right of way?

Mr. MATHEWS. They had a prior right, to a certain extent, and since then they have added several power plants on Bishop Creek. In accordance with the compromise resulting in the exception of Bishop Creek and its branches from the grant we sought in 1906, we have kept entirely away from Bishop Creek.

The CHAIRMAN. The committee will now adjourn until 10 o'clock. to-morrow.

(Thereupon, the committee adjourned until to-morrow, Saturday, November 1, 1919, at 10 o'clock, a. m.)

COMMITTEE OF THE PUBLIC LANDS,
HOUSE OF REPRESENTATIVES,
Saturday, November 1, 1919.

The committee this day met, Hon. Nicholas J. Sinnott (chairman) presiding.

STATEMENT OF MR. W. B. MATHEWS, LOS ANGELES, CALIF.—Continued.

The CHAIRMAN. Mr. Mathews, will you resume your statement? You were explaining section 1 of the bill H. R. 406 as to how it differed from section 1 of the act of 1906. You had gotten down to

the proviso on page 3, and said that that was taken from section 4 of the act of 1906. I wish you would identify the similarity.

Mr. MATHEWS. Mr. Chairman and gentlemen of the committee, we were trying yesterday noon, when recess was taken, to get a clear conception of the physical situation which is affected by the bill, and attention was called to the fact that this bill affects lands in the counties of Mono, Inyo, Kern, and Los Angeles, naming them in the order in which they are located from north to south.

We also called attention to the fact that the bill affects certain national forests reserves and timber-land reserves and that the names of those reserves had been changed by law, and we also called attention to the fact that down at the southerly end, out of due caution and in deference to the wishes of Mr. Kettner, the area had been restricted by amendment, and that at the north the city had been restricted by a line drawn across between Mono Basin and Owens River Basin, so as to exclude the city from the Mono Basin, and by a line drawn along the crest of the Sierra-Nevada Mountains which border Owens Valley on the west, so as to keep the city out of the Kern River Basin; in other words, to confine the city's project to the Owens River drainage basin and the territory through which the aqueduct passes on its way down toward Los Angeles. We also called attention to the fact that a certain exception had been made against the city in the act of 1906 in the Owens River Basin proper, to wit, the exception of the Bishop Creek and its tributaries, and this bill, besides that exception, includes a certain other exception, namely what is known as the Fish Slough Reservoir, which is a reservoir site in the vicinity of Bishop Creek. This is a matter in which the local irrigators are very much interested, and at the instance of certain gentlemen representing those people the committee last spring excluded the Fish Slough Reservoir.

The CHAIRMAN. That is mentioned in the proviso at the top of page 3?

Mr. MATHEWS. Yes, sir; Bishops Creek and its tributaries and Fish Slough Reservoir and the drainage basin of Kern River to the west and Mono basin to the north.

The CHAIRMAN. You said that was taken from section 4 of the act of 1906. Where is that in section 4?

Mr. MATHEWS. At the very end of section 4 of the act of 1906 the exception of Bishop Creek and its tributaries is provided for. In the framing of this bill that exception, together with the other exceptions mentioned were placed in section 1 so as to have all of the exceptions together.

The CHAIRMAN. This is the proviso in section 4 of the act of 1906:

Provided, however, That the terms of this act shall not apply to any lands upon Bishop Creek or its branches in said county of Inyo.

Mr. MATHEWS. Yes, sir.

The CHAIRMAN. The other exceptions in this proviso are additions?

Mr. MATHEWS. Yes, sir; made as a result of negotiations last spring.

I might say further, perhaps, by way of repetition so as to make clear the situation, that the exception of Bishop Creek and its

tributaries in the act of 1906 was at the instance of the power companies on that stream, and that exception has been continued in the present bill. Those same companies have extended their operations into the Mono basin and are now operating on certain streams in the Mono basin, and the exception of that basin is for their benefit. I do not remember at whose instance it was that that exception was put in the present bill.

The CHAIRMAN. What are the companies referred to?

Mr. MATHEWS. There are two companies known as the Southern Sierras Power Co. and the Nevada-California Power Co., controlled by the same interests.

The CHAIRMAN. Please take up the exception seriatim and show the changes so that we will have them all in one place?

Mr. MATHEWS. In the first place, the things to be granted under this bill are set forth in section 1, and are the same as set forth in section 1 of the act of 1906, to wit:

All necessary rights of way, not to exceed 250 feet in width, over and through the public lands of the United States * * * for the purpose of constructing, operating, and maintaining canals, ditches, pipes, and pipe lines, flumes, tunnels, and conduits for conveying water to the city of Los Angeles, and for the purpose of constructing, operating, and maintaining power and electric plants, poles, and lines for the generation and distribution of electric energy together with such lands as the Secretary of the Interior may deem to be actually necessary for power houses, diverting and storage dams and reservoirs, and necessary buildings and structures to be used in connection with the construction, operation, and maintenance of said water, power, and electric plants.

Taking section 2 of the present bill, which is section 2 of the act of 1906 with certain amendments, those amendments are matters of procedure in reference to the filing of our maps. If you will permit me to read section 2 of the old act you can catch the particular changes which are proposed in the present section 2.

Mr. VAILE. I think I can give you that here.

Mr. SMITH. That is purely administrative?

Mr. MATHEWS. As to the time of filing the maps.

Mr. SMITH. We are not specially interested in that.

Mr. MATHEWS. The time allowed for the filing of maps under this bill would be until December 31, 1922, and that is one of the objects of the bill, to give us that much more time.

The CHAIRMAN. Under the original act it was written within one year after the passage of the act?

Mr. MATHEWS. Yes, sir, with two years for amendments.

Mr. SMITH. Why do you need so much time; that is three years?

Mr. MATHEWS. It may be that we are unduly cautious, but Mr. Smith, our main trouble in this matter arose out of the fact that in the original act we only had one year in which to make our surveys and file our maps, for 240 miles of conduit, and we found that it was absolutely impossible to arrive at the final and proper locations at every point, and because of that fact we encountered difficulties in building the works and were forced off of the approved right of way. The fact that we also had two years for amendments was not of material advantage for a project requiring six or seven years to construct.

The CHAIRMAN. What is the next change in section 2?

Mr. VAILE. There is a change in the form of the language on page 4 of this bill. I do not now catch any change in the section except that the present bill provides that the plan of development must be approved by the Secretary of the Interior.

Mr. MATHEWS. The Departments of Interior and Agriculture in their reports on the bill, as introduced in the Sixty-fifth Congress, recommended that it be amended so as to provide not only that the maps should be presented for his approval, but that he should have the right to pass on the proposed plan of development, and the bill was amended accordingly, and the present bill conforms to that.

Mr. VAILE. That is a new feature in this bill.

Mr. MATHEWS. Yes.

The CHAIRMAN. Is there any controversy between you and these people over section 2?

Mr. MATHEWS. There is no controversy at all affecting that section, so far as I know.

Mr. MAYS. Have they asked for authority to control the rates?

Mr. MATTHEWS. No, sir. Their proposed amendment is on file here and they do not ask for that.

The CHAIRMAN. Then, take up section 3.

Mr. MATHEWS. Section 3 of the act, as proposed to be amended—the amendments are in the way of restrictions and additional limitations on the city——

The CHAIRMAN. The section is practically the same down to line 10 on page 5?

Mr. MATHEWS. That is true; yes sir. Line 10 on page 5 reads:

Provided, That the lands affected hereby shall be subject to applications for homesteads, for rights of way for canals, ditches, or reservoirs, for the conveyance, delivery, or storage of water for irrigation——

Mr. VAILE (interposing). That is all new from line 10, that part of the section is new?

Mr. MATHEWS. It is not entirely new.

Mr. VAILE. It is new from the act of 1906?

Mr. MATHEWS. Not that entire part of the section.

If same be filed in the proper United States land office prior to the filing of maps by the city of Los Angeles, showing the boundaries, location, and extent of the rights of way sought by said city.

Referring particularly now to that portion of the proviso under the old law, the city, under the act of 1906, had the privilege of selecting its rights of way and the country was withdrawn from location and from other administrative operations until the city had secured what lands it wanted. In this bill the lands are left open until our maps are filed, so far as irrigation is concerned, because we do not ask the Congress to assist us to get any more water until we get our maps filed, the country may remain open for projects pertaining to irrigation. That led to the insertion of the proviso which I have just read.

Mr. VAILE. Please show me in the act of 1906 where is found this matter contained in the proviso in section 3 of the present bill?

Mr. MATHEWS. That what I have just read is entirely new matter.

Mr. VAILE. That is what I was saying.

Mr. MATHEWS. Yes, sir; that is entirely new. That is, the act of 1906 had the effect of withdrawing from entry and other administrative processes that territory until we could make our surveys and file our maps. That is now left open for those purposes until we actually file the maps.

Mr. VAILE. This is in the nature of a very large reservation?

Mr. MATHEWS. Yes, sir.

Mr. TAYLOR. It is a relinquishment of your own rights which you might have had?

Mr. MATHEWS. Yes, sir.

The CHAIRMAN. Does that complete section 3?

Mr. MATHEWS. No, sir.

It developed during the hearings last spring that there was a company on what is known as the Owens River Gorge that had some interest. If you will allow me only to speak of that condition just briefly. Owens River, as I said yesterday, rises in Mono County and flows down across the boundary line into Inyo County and there discharges into a salt lake. In passing from Mono County southerly down into Inyo County it goes from a higher level to a substantially lower level in Inyo County. There is what is called the gorge running for a distance of about 18 or 20 miles from a point in Mono County down across the boundary line into Inyo County. In that gorge are opportunities for the development of power. At one place there is this company known as the Mono Power Co. represented last spring by Mr. Adams, its owner and president. It was thought, considering the fact that he had been there a long time, that the bill should not hamper him in his development of power and the matter was referred to Mr. Finney, of the Department of the Interior, and he worked out a provision to cover Mr. Adams's situation and we agreed that it should be inserted in the bill. That provision read as follows.

Mr. TAYLOR. Where is that?

Mr. MATHEWS. At the bottom of page 5.

The CHAIRMAN. What line?

Mr. MATHEWS. Line 17.

And provided further, That the grant hereby made shall not apply to any lands or rights of way included in any application filed by, and thereafter approved to, any person or corporation for the development of hydroelectric power in connection with any project upon which actual construction work was being performed prior to June 30, 1906, on that portion of Owens River lying above the confluence of Rock Creek and said river, and locally known as Owens River Gorge, and upon which portion construction work may have been carried on continuously since that date: *Provided*, That such applications for rights of way over or the right to use lands shall be filed within six months from the date of the passage of this act.

The entire proviso, I should say, was prepared in the Interior Department to cover the contingency developed in the proceedings here so as to protect both the interests of Mr. Adams and the Mono Power Co. as to their project in the Owens River Gorge.

The CHAIRMAN. Is there any objection to inserting after the word "development" in line 20 on page 5 the words "and transmission."

Mr. MATHEWS. Yes; we do object to that. I understand that the company now wishes to enlarge the exception, despite the settlement

of last spring. We do object to that. I can give the reason now, if you think that I should.

The CHAIRMAN. I understand that Mr. Adams wants those words inserted. Is that correct, Mr. Adams?

Mr. ADAMS. Yes; Mr. Chairman, we should like to have the words "or transmission" inserted.

Mr. MATHEWS. Shall I proceed, Mr. Chairman?

The CHAIRMAN. Yes, sir. You may take it up now if you desire.

Mr. VAILE. That involves the whole issue between these different interests.

The CHAIRMAN. You had probably better defer it so that we may get the changes in regular form.

Mr. MATHEWS. Going to the next section of the present bill, to-wit, section 4, we find that it is a section that relates to section 5 of the act of 1906. Section 4 of the act of 1906 is not for any purpose continued in its original form or by amendment in the present bill, but section 5 of this act is amended by this bill as shown here.

Mr. VAILE. Can I refer to the changes?

Mr. MATHEWS. Yes, sir.

Mr. VAILE. In the present bill after the word "act" in line 13, the original bill had this language:

> Or if after such period of five years there shall be a cessation of such construction for a period of three consecutive years.

That language is stricken from the present bill.

Mr. MATHEWS. I may say that the bill of last year was referred to the Department of Agriculture and that department is particularly active about power. As you all know better than I do, they wrote in their report that portion of the bill and the committee adopted their report and put it in this bill.

Mr. VAILE. The language in the present bill beginning in line 14 is new; it was not in the act of 1906?

Mr. MATHEWS. Yes, sir; that was the idea.

Mr. TAYLOR. By reason of the compromise at the last hearing?

Mr. MATHEWS. Yes, sir.

Mr. TAYLOR. And by reason of the recommendation of the department?

Mr. MATHEWS. Yes, sir.

Mr. VAILE. I was not considering the means, but the reason and pointing out the change.

Mr. TAYLOR. That was worked out more particularly to meet the opposition.

The CHAIRMAN. That completes the changes in section 5?

Mr. MATHEWS. Mr. Merrill, of the department, wrote a report for that department to the committee and suggested that change, and we acquiesced in it. All of the changes recommended by the department are in the report prepared by Judge Raker.

The CHAIRMAN. Please take up section 8 now.

Mr. MATHEWS. Section 5 of this bill brings in a new section, to wit, section 8. I think that Judge Raker himself almost entirely prepared that, because he had the example of the Hetch-Hetchy bill.

Mr. TAYLOR. I have always insisted upon that clause going into every bill of this kind. In the case of the San Francisco water right from the Hetch-Hetchy and also in the case of the water right for

San Diego and various others. It is a section taken from section 8 of the original reclamation act of June 17, 1902, and has been put into all of these matters as a specific recognition of our State laws in all questions pertaining to its appropriation, use, and ownership of the waters of any Western States. It is a guard against Congress trying to usurp authority over our water rights that were given in the enabling acts by which our States were admitted into the Union, and is a right reserved in our constitutions. I also put that clause in the national water-power bill.

The CHAIRMAN. Could you and Mr. Consaul get together and supply the committee with a comparison between this bill and the act?

Mr. MATHEWS. Yes, sir.

The CHAIRMAN. I think that can be done with little trouble. You could both agree, and then I could have it reprinted.

Mr. MATHEWS. Yes, sir. I think you have a bill that shows that.

The CHAIRMAN. Not a comparative statement. Put it all in one.

Mr. MATHEWS. I mean that it shows it by italics.

Mr. ELSTON. The bill S. 4023 contained some amendments to the original act of 1906. The comparison that you speak of would only show the differences between the Senate and the House bills and would not show what the chairman has suggested.

The CHAIRMAN. You will do that?

Mr. MATHEWS. Yes, sir.

The CHAIRMAN. Then, we will have it printed, and we will have it before us when we come to consider the matter.

You may now proceed, Mr. Mathews, as you wish.

Mr. MATHEWS. Going back to the beginning of the bill and, perhaps, covering some ground already traversed yesterday, the reason, as I stated, for including Mono County in the scope of the bill by name is the fact that under section 4 of the act of 1906 we were given the privilege of buying from the Government certain lands it had set apart for reclamation purposes in Mono County, we paying the regulation price of $1.25 an acre. In order to have that privilege we were also required to pay the out-of-pocket expense of the Government in connection with that project, which was $14,000. Pursuant to that provision, the city purchased from the Government a large body of land in Mono County, where we wanted it in connection with its proposed projects.

The CHAIRMAN. When the Government abandoned the reclamation project?

Mr. MATHEWS. Yes, sir; it did so and we paid $14,000; and we also bought land in Mono County which it had intended to use in connection with the project.

Mr. ELSTON. How many acres?

Mr. MATHEWS. I think it must have been 8,000 or 10,000 acres. Besides that we have acquired by purchase from private owners many thousand acres located in that same locality, and also acquired rights of way over an extensive area by filing maps under the general laws in connection with the reservoir project in Mono County, located at the head of the gorge which I have just referred to, which runs from a high elevation in Mono County down across the boundary line into Inyo County.

Mr. TAYLOR. What kind of land is that?

The CHAIRMAN. Jack-rabbit land?

Mr. MATHEWS. Yes, sir. It was bare land, of course. There is a natural reservoir site there which the city wanted and which the Government itself, if it had carried out the reclamation project, would have utilized.

Mr. TAYLOR. It can be utilized for storage purposes, but not for raising cabbage or anything of that kind?

Mr. MATHEWS. No, sir.

Mr. TAYLOR. It is rocky?

Mr. MATHEWS. Very likely you could not use it for agriculture, because the season is too short and too uncertain.

Mr. SMITH. The land has no value for agricultural purposes, even if irrigated?

Mr. MATHEWS. It has value chiefly for grazing purposes at certain times of the year.

The CHAIRMAN. Mr. Smith said "if irrigated?"

Mr. MATHEWS. Some parts of it are irrigated for pasturage, but the growing season there is too short and uncertain for successful agriculture. Spring hangs on very long and fall starts in early; you do not have the climatic conditions suitable for successful agriculture. The elevation is about 6,000 feet.

The CHAIRMAN. When does the fall start?

Mr. MATHEWS. They have snow in September sometimes.

Mr. ELSTON. I saw where they had snow two weeks ago.

Mr. MATHEWS. It is a country that you better beware of when fall sets in. The snow falls there at times four or five feet deep.

The scope of the present bill is merely that of the act of 1906, with the addition of territory in the southerly portion of Mono County and some restrictions to the north and to the west of Owens Valley and down toward Los Angeles where one or more Congressmen thought it better that there be limitations as to the area in which the city might select rights of way. The territory to which the city is now restricted is very narrow. There is a mountain range on the west and a mountain range on the east and the valley is very narrow, averaging from 6 to 12 miles or so in width and is about 80 miles in length.

The CHAIRMAN. Briefly summarized, just what additional rights will be granted under this new bill?

Mr. MATHEWS. Additional time—that is, until December 31, 1922, in which to file maps and obtain rights of way for water and power purposes of the character described in section 1 of the act of 1906, in territory the same as described in said section 1, to wit, Inyo, Kern, and Los Angeles Counties, California, together with the southerly portion of Mono County in said State, which is added by section 1 of the present bill. Said section 1 of this bill, however, takes away from the territory described in the act of 1906 wherein the city was authorized to select and obtain power and water rights of way, extensive section in Kern and Los Angeles Counties.

I should be stated also, that under section 4 of the act of 1906 the city was authorized to purchase, and did purchase, many thousand acres of land in the southerly part of Mono County for its projects.

Mr. ELSTON. Why are you willing to restrict the powers given you under the act of 1906 if this bill gives you no additional rights?

Mr. MATHEWS. Our practical situation is this: The act of 1906 provided limitations affecting both power and water which expired before we could carry our projects to completion. The purpose of this bill is to give us an extension of time to complete the projects and also by enabling us to obtain rights of way in the southerly part of Mono County, to enable us to carry out that portion of our power project situated in that territory.

The CHAIRMAN. Restrictions as to the water?

Mr. MATHEWS. Restrictions as to the time in which we might select the rights of way. We had only a year's time to file our original maps of the lands and rights of way desired.

The CHAIRMAN. You are merely asking, according to your statement, for an extension of time?

Mr. MATHEWS. Yes, sir; and to amend the boundaries of the territory affected, by adding some to and excluding some from that included in the act of 1906. It took seven years to build the aqueduct. We spent $24,500,000 on that work.

Mr. TAYLOR. Limiting you to one year or two years, it seems that was plenty?

Mr. MATHEWS. The act itself was the result of pulling and hauling, changes and opposition, all occurring in a very limited time, and there was no opportunity for a study of the plans and condition on the ground, and we did not realize just how cramped we were until we got back to California and commenced work.

Mr. ELSTON. Do I understand that the original act passed in 1906 gave you a certain right that you were to exercise with two years and that that right elapsed approximately in the year 1908 and that from 1908 to 1917 when this bill was introduced you first asked this additional time, and that you have no right to file the maps and make the locations which the original act of 1906 gave you?

Mr. MATHEWS. No, sir. I might say that we began our efforts to get relief six or seven years ago when Senator Works was one of the Senators from California. He introduced a bill substantially along the lines of this bill and it passed the Senate and got over to the House, but struck a congestion there and never got through. We have been more diligent than successful in our efforts.

The CHAIRMAN. Under this bill (H. R. 406) could you convey or put to beneficial use any more water than you now have?

Mr. MATHEWS. This bill is not designed to enable us to get a drop more of water for our aqueduct.

The CHAIRMAN. How about power. Will it enable you to develop any more power than you can devolep now?

Mr. MATHEWS. It will enable us to obtain certain rights of way in the southerly part of Mono County which we could not have obtained under the act of 1906, but those rights of way are required in connection with the use of lands in that part of Mono County which we acquired under the act of 1906. But this bill cuts out power opportunities elsewhere, which we could have obtained under that act. Under that act we had certain time allowances for making surveys and filing maps.

The CHAIRMAN. That has all lapsed?

Mr. MATHEWS. Yes.

Mr. TAYLOR. Is it true, as suggested by the chairman, that your rights have elapsed? I do not understand such to be the case.

Mr. MATHEWS. I understood his meaning to be that the time had expired under the act of 1906 for us to file maps and obtain the additional land and rights of way we required.

Mr. MAYS. At this time you do not contemplate the need of any more water there?

Mr. MATHEWS. No; we do not. This bill would not enable us to carry out any other project along that line. It will be a matter of many years in the future if we ever want any more water.

Mr. MAYS. It will not be long the way Los Angeles has been growing?

Mr. MATHEWS. No, sir. In that part of California and, perhaps, in other parts of the country for the last several years, there has been an extreme shortage not only of water, which has produced great alarm in California. This year we are very short of water. I might say that in order to get the water we require we have been compelled to put down wells in this territory that we got under the act of 1906 in order to supplement our supply from surface streams. That part in which we are sinking wells and pumping water was granted to us by the Government under the act, we paying $1.25 an acre, for the purpose of supplementing our supply. This year is a very short year and we have been compelled to draw on that pumped supply in order to provide the amount of water that we require for our purposes.

Mr. MAYS. It seems to me that an important city should have plenty of water, particularly if you have water going to waste, and I dislike to hear you disclaim that you will ever try to get any more water.

Mr. TAYLOR. It seems, to me, Mr. Mathews, that you should not make such a statement to this committee. We former members of this committee had a long hard fight for some five or six years to pass a bill for rights of way to obtain water for San Francisco, but we finally did run the gantlet of thousands of vigorous and persistent objectors and secured water for San Francisco. We also had a long hard fight for Mr. Kettner to get water for San Diego, but we finally compromised with or ignored the various objections and got it. Los Angeles is a great growing city, and I feel that they should stand on their absolute rights; that the city is entitled to recognition at the hands of Congress and of this committee. I do no feel that you should burn any bridges in front of you or limit your development or disclaim any rights which you have. While I want to treat the power companies fairly and honestly and let them have whatever they are entitled to, I do not want them to wrongfully infringe upon the rights or profit at the expense of the city. I simply want to give Los Angeles the same square deal that we gave San Francisco and Dan Diego and many other cities.

Mr. MATHEWS. I should say this, Mr. Taylor, that in order to get water that we wanted down in Owens Valley, we did not simply go on and file on the streams, but we went in there and spent over a million dollars and secured existing water rights and at least 50,000 acres of land in the valley.

The CHAIRMAN. I should like to understand your present exact status, not what you are entitled to. Under the act of 1906 you can develop, I assume, so many units of power. How many additional units of power can you develop if the bill H. R. 406 is passed?

Mr. MATHEWS. If this bill is passed the city can develop and transmit a total horsepower of 245,000, aproximately, including all the power it could develop under the act of 1906. It has also developed 37,500 horsepower down in Los Angeles County under revokable permits. If the city had been allowed a reasonable time under the act of 1906 to make its surveys and selections of rights of way and lands it required for power purposes, it could have obtained power opportunities—that is, places where it was practicable to develop power, permitting at least the development of 235,000 horsepower.

The CHAIRMAN. That is not an answer to the question. How many units can you develop under your present rights, under the old law?

Mr. MATHEWS. I would say that it would not be over 3,000 horsepower; that being at three little plants in Owens Valley, which the city built in connection with the construction of the aqueduct.

Mr. ELSTON. Additional to the 37,000?

Mr. MATHEWS. That is exclusive of 37,500 horsepower we are now developing in San Francisquito Canyon, in Los Angeles County, at a plant built under a Forest Service permit and completed in 1917, and which utilized the flow of water in the aqueduct at that point for generating electric power.

The CHAIRMAN. You can develop under the old act 3,000 horsepower?

Mr. MATHEWS. Yes, sir.

The CHAIRMAN. How many additional units can you develop if the bill (H. R. 406) is passed?

Mr. MATHEWS. Approximately 230,000 horsepower, of which approximately 37,500 horsepower, now developed, and 167,500 horsepower, yet to be developed, is along the aqueduct and from the flow of water therein and on lands acquired by the city under the act of 1906, and approximately 25,000 horsepower is on side streams in the Owens River drainage basin, which were open to the city under the act of 1906.

Said 230,000 horsepower includes the following: (*a*) Approximately 37,500 horsepower already developed from the flow of the aqueduct, at a plant built under Forest Service revocable permits, in San Francisquito Canyon, in Los Angeles County, for which development we wish to obtain permanent rights of way for power-house site and transmission-line purposes under the present bill; such rights of way could have been obtained under the act of 1906 if the city had had sufficient time to make surveys and selections; (*b*) approximately 80,000 horsepower on lands on Owens River, lying partly in Mono County and partly in Inyo County, Calif., and which the city acquired under the act of 1906, for which the city wishes to obtain permanent rights of way for transmission purposes under the present bill; of which rights of way so desired approximately 80 per cent could have been obtained under the act of 1906 if the city had had sufficient time for surveys and selection; (*c*) approximately 25,000 horsepower on creeks within territory which was open to the city under the act of 1906, but the necessary rights of way for developing which the city was prevented by shortness of time from applying for or obtaining; (*d*) approximately 87,500 horsepower at various points along the aqueduct and from the flow of the aqueduct, in connection with which the necessary rights of way for power houses,

transmission lines, and other works covered by the act of 1906 and this bill could have been obtained under said act but for the shortness of time.

NOTE.—In addition to the above items, totaling 230,000 horsepower, the city has opportunities for approximately 12,500 horsepower from the flow of the aqueduct, but does not require rights of way therefor over Government land.

Mr. TAYLOR. If you can develop additional power and you utilize all the water you have, that is nobody's business; you have that right.

The CHAIRMAN. I was not asking the question as an argument against his position.

Mr. TAYLOR. I understand, Mr. Chairman.

Mr. MATHEWS. Out of the total of 245,000 horsepower, approximately 50 to 55 per cent is along the aqueduct itself, where we presumably have the exclusive right to develop power from the water flowing in the aqueduct; approximately 30 to 35 per cent on lands that were granted to us under the act of 1906; and approximately 10 per cent on lands which were open to us under that act, but which we were prevented by the shortness of time from acquiring.

Mr. TAYLOR. You do not have to ask this committee for permission to enhance your power development, if you can, on your own property?

Mr. MATHEWS. No; except to get transmission lines to carry the power down to Los Angeles. We need the help of Congress in connection with the lands that we have already, and the power opportunities that we already possess.

Mr. VAILE. You say that of this total of 245,000 horsepower you will be able to develop 55 per cent from the lands along the aqueduct?

Mr. MATHEWS. Yes, sir; approximately 50 to 55 per cent.

Mr. VAILE. And from other lands granted under the act of 1906?

Mr. MATHEWS. From the aqueduct flow there should be about 50 to 55 per cent.

Mr. VAILE. Where will you get the other 45 per cent?

Mr. MATHEWS. About 35 per cent on lands in the Owens River Gorge deeded to us by the Government under the act of 1906 at $1.25 an acre, and about 10 per cent on streams in the Owens River drainage basin and within territory which was open to us under the act of 1906, and is covered by the bill——

Mr. MAYS. What proportion of the total flow of the Owens River do you take at your intake?

Mr. MATHEWS. We have been taking, I should say, nearly the entire flow of the river. The aqueduct is designed to take the entire flow of the river after the irrigators have gotten what they are entitled to have, above.

Mr. VAILE. What part of the 45 per cent of your total development of horsepower will be due to any rights conferred upon you by this bill which we are now considering, if any?

Mr. MATHEWS. Ten per cent on lands which we do not now own.

Mr. VAILE. Can you point out to us the provision in the act which will enable you to develop that 10 per cent?

Mr. MATHEWS. Section 1 of the bill, or section 1 of the act.

Mr. ELSTON. To clear up a statement made last year, which I have just checked in your testimony, I understood from a question I asked you that if this right under the bill H. R. 406 were given you it

would merely permit you to use practically the power possibilities that were under your control anyway and that if this bill did not pass that you nad such control and position there that no one else, practically speaking, could use the power possibilities which would come about?

Mr. MATHEWS. I will answer that this way: Take the aqueduct proper, that is 50 to 55 per cent. We have that under our exclusive control. Then, there is 30 to 35 per cent of lands long granted and sold to the city under the act of 1906.

Mr. ELSTON. And it would not enlarge your rights of storage or your position on the streams which gives you exclusive opportunity to develop the power?

Mr. MATHEWS. No, sir.

Mr. BARBOUR. The rights of way are the sole subject of controversy?

Mr. MATHEWS. Those are the things that we want to get under he bill.

Mr. BARBOUR. Are not they the sole subject of controversy between the proponents and opponents of the bill?

Mr. MATHEWS. I do not think so.

Mr. ELSTON. I think the only controversy here concerned, according to Mr. Mathews's testimony, is the possible 10 per cent additional to these power sites which the city might get. So far as it concerns the outside power companies, the controversy is reduced to very small limits. My understanding is that the controversy here is to enable the city to make its locations for transmission lines and according to the other companies the right to have rights of way from their own plants which may cross or cover the rights which the city may wish to have.

The CHAIRMAN. And for additional storage?

Mr. ELSTON. No; I do not so understand. As to the rights, I understand there is a very small amount that the city does not already control.

Mr. MATHEWS. We might want some storage sites on some small creeks.

Mr. ELSTON. That is very small, you think?

Mr. MATHEWS. About 45 per cent of the total 245,000 is along the aqueduct and from the flow of the aqueduct proper. Approximately 35 per cent is on this land deeded to us by the Government of the United States at $1.25 an acre under the act of 1906 along the Owens River Gorge, and the balance of the power we will have to get from tributary streams of the Owens River drainage basin, and in order to utilize the power opportunities on these streams we must have sites for power houses, the reservoir sites, and rights of way for transmission.

Mr. VAILE. Those are new rights of way that you hope to have conferred by this act?

Mr. MATHEWS. If by new rights of way you mean such as would be outside of the scope of the act of 1906 such new rights of way would constitute but a small per cent of the rights of way covered by the bill, and besides the bill cuts the city out of territory open to to it under that act, and the account is probably balanced.

Mr. VAILE. Let me summarize this and see if this would be a correct statement. Under the former act you had rights of way over public lands in Inyo, Kern, and Los Angeles Counties, and through the Santa Barbara forest reserve and the San Gabriel timber land reserve?

Mr. MATHEWS. And the privilege of buying a large body of land in Mono County, which we did buy under section 4 of the act.

Mr. VAILE. Under this bill you have in addition to those public lands in Mono County?

Mr. MATHEWS. Yes, sir; and also have a part of the Los Angeles National Forest.

The CHAIRMAN. That is the same as described in the other act.

Mr. VAILE. That was in the other act.

The CHAIRMAN. Under another name.

Mr. MATHEWS. They changed the name.

Mr. VAILE. Mono County is changed.

Mr. MAYS. Is that right?

Mr. MATHEWS. Not the name, but the territory therein where this bill would give the city rights of way.

Mr. VAILE. This bill does not give you any rights in that part of Mono County lying north and west of the Owens River drainage basin or to lands located upon Bishop Creek?

Mr. MATHEWS. That is correct.

Mr. VAILE. Mono County, with the exception of what I have just stated, contains public land on which you would get rights under this bill which you did not get under the act of 1906?

Mr. MATHEWS. That is right.

Mr. VAILE. And from the rights of way on the land in Mono County you can develop 10 per cent additional horsepower?

Mr. MATHEWS. The 10 per cent we expect to get is from streams in Inyo County, which were open to us under the act of 1906.

Mr. VAILE. Of the 10 per cent in Inyo County is any on public lands over which you are granted rights of way by this act and not included in the former act?

Mr. MATHEWS. No; all territory in Inyo County which is covered by this bill is territory embraced in the act of 1906.

Mr. VAILE. They are embraced in both acts?

Mr. MATHEWS. Yes; but we had, under the other act, some territory in Inyo County and Kern County that is not included in this act, but cut out.

Mr. VAILE. If this 10 per cent is all developed in Inyo County and the former act gave you a right of way over public lands in Inyo County, all the public lands in Inyo County, then your 10 per cent of increase in development of horsepower is not due to anything granted you by this pending bill, is it?

Mr. MATHEWS. You mean, would we be getting it by reason of this pending bill?

Mr. VAILE. Yes; that is what I mean, would you get it by this pending bill?

Mr. MATHEWS. We would get it by reason of the extension of time under the act of 1906.

Mr. ELSTON. There is no extension of territory involved in this act which would enable you to develop this 10 per cent?

Mr. MATHEWS. In Inyo County?

Mr. ELSTON. Anywhere.

Mr. MATHEWS. No.

Mr. SMITH. It is a limitation on the land in Inyo County.

Mr. ELSTON. Yes. There is no extension of lands over which you get this right of way in this act, which enables you to get this 10 per cent; it is only time.

The CHAIRMAN. In order to generate this additional power, you will be able to generate under H. R. 406, will you have to increase your flowage over your present flowage?

Mr. MATHEWS. No. We just take the streams as they run naturally and develop them.

The CHAIRMAN. I mean in your conduit?

Mr. MATHEWS. No, sir; we will not enlarge it. The conduit stands there for all time to come.

The CHAIRMAN. I mean over the amount of water that is flowing in there?

Mr. MATHEWS. That is true, except we are not diverting and using all that water we are entitled to, yet.

The CHAIRMAN. And you will increase your diversion over the present diversion?

Mr. MATHEWS. Yes.

Mr. VAILE. But that increase will not be due to any additional privileges except the extension of time granted by this act?

Mr. MATHEWS. That is true. Naturally, we have not used and diverted all the water yet that we are entitled to divert.

Mr. ELSTON. I would like to ask you this question: Will you state from your standpoint how the rights claimed by the companies represented here will interfere with the rights of the city, taking the claim of Mr. Adams to have the word "transmission" added and taking the claims of these other companies that have projects already established, who are serving other communities, like Los Angeles, the Imperial Valley, and some parts of Nevada and Arizona? To what extent will the rights they are claiming hamper you in the development of the rights you are asking?

Mr. MATHEWS. Taking up Mr. Adams's request for the insertion of the additional words "or transmission lines" in section 2——

The CHAIRMAN. Section 3.

Mr. VAILE. Page 5, line 20, "development or transmission."

Mr. MATHEWS. The bill is in its present form, so far as Mr. Adams is concerned, because of the fact that his project is an old one—something like 15 or 20 years old. It, therefore seemed proper, particularly since we are all in a compromising mood, to make an exception of that project in order to permit it to be developed. Now, as to adding, at this time, to such exception the privilege of selecting rights of way for transmission lines, such additional exception, if written into the bill, would suspend our right to select rights of way for transmission and other purposes for six months after the passage of the act, as against not only the rights of way for the development of his power in Owens River Gorge, but also rights of way for the transmission of such power which might be for hundreds of miles from the gorge. To include transmission in the exception would suspend all of our rights under the bill, even on lands 200 miles away, for six months, in his favor.

The CHAIRMAN. You have had the same right?

Mr. ELSTON. You have had the same right, Mr. Mathews, for probably upward of 10 years.

Mr. MATHEWS No; Mr. Adams's company, under existing acts of Congress, has now, and for all these years, probably a dozen years, has had the right to obtain his rights of way for transmission, while our main object in coming to Congress is to show that the rights of way obtainable under such existing acts are not suitable for municipal purposes and to obtain new legislation to meet our case. If, then, Congress should see fit to give the city relief, why should Congress tie the city's hands as to rights of way it wants for six months or any period of time after the act is passed, for the benefit of a company which can now obtain, and, at any time in the past 15 years, could have obtained rights of way for transmission purposes?

Mr. ELSTON. Supposing this act had not passed and that the city was in the position of a private operator in that field. I do not understand that the mere inchoate privilege of one corporation to ask for rights of way for its transmission line from its project to that extent creates a withdrawal order in its favor as against all these other private operators in the same field.

Mr. MATHEWS. Oh, no.

Mr. ELSTON. Now, here is a very important question: You are all there in the same field; each of you has projects and we will grant each of you has rights; each of you has the privilege of making an application to the Interior Department for transmission lines. And I assume that every one of you are developing these plans for application for rights of way. Nobody as between these private claimants would say one private claimant had an exclusive over another private claimant by reason of the fact he had not yet made his application. Now, why do you say if that were true, if you were a private claimant, operating in that district, that the mere fact that one concern there has not yet exercised its privilege to get its transmission lines out from its project to that extent bars you, until it has exercised its privilege to get its transmission lines, from making any application whatever? As a matter of law, how does that operate; that is what I want to know?

Mr. MATHEWS. Let me make it clear to you. I say, in the first place, that this company has the benefit of the existing acts under which it could have obtained at any time in the last dozen years the rights of way for transmission purposes that it may require. It can to-morrow; it can probably within the next 60 days, or a month before this bill could become a law, in any event. They have that right under existing acts.

Mr. ELSTON. Just as you have yours.

Mr. MATHEWS. But the existing acts are not suitable for our purposes. We are asking you to legislate in our behalf and not in their behalf.

Mr. ELSTON. I understand.

Mr. SMITH. The reason you say that, Mr. Mathews, is because the city has a paramount right to the use of this water; that is, on general principles, as a matter of policy.

Mr. ELSTON. I am distinctly in favor of that principle. I want the city to have every right it can possibly have. I believe it ought to have that right and if the rights of some others conflict with it and

bar the city from the development of its transmission lines, I believe it should have the exclusive option. But to what extent does the mere fact some of these companies have not exercised their rights to select these rights of way bar the city entirely from getting its rights of way until these other concerns have exercised their rights?

Mr. BARBOUR. You say they have right now and can do it; then why not continue to give them the right?

Mr. MATHEWS. Just let me read you what the bill would do if amended as they ask.

Mr. ELSTON. We can amend it then.

Mr. MATHEWS. Let me read this. After providing for a grant in favor of the city, we have this proviso. I am reading at the bottom of page 5, as follows:

And provided further, That the grant hereby made shall not apply to any lands or rights of way included in any application filed by, and thereafter approved to, any person or corporation for the development—

Now I will add in what they want:

* * * or transmission of hydroelectric power in connection with any project upon which actual construction work was being performed prior to June 30, 1906, on that portion of Owens River lying above the confluence of Rock Creek and said river, and locally known as Owens River Gorge, and upon which portion construction work may have been carried on continuously since that date: *Provided*, That such applications for rights of way over or the right to use lands shall be filed within six months from the date of the passage of this act.

In other words, our bill is inoperative for our benefit as against them for six months after the passage of the bill, in order that they may select rights of way, and we can not do anything to prejudice or prevent them from getting what they want during that time. We are willing, by reason of the compromise, to let that stand as to development work at the Owens River Gorge, but not to transmission.

The CHAIRMAN. Is not that the situation right now? Would not diversion for the development of hydroelectric power include transmission lines?

Mr. MATHEWS. I do not think it does. It was not intended.

Mr. TAYLOR. Would that have this effect, of condoning the laches of the company and at the same time hold the city responsible, and the company could now wake up and do it?

Mr. MATHEWS. That is it.

Mr. VAILE. I do not understand it so.

Mr. ELSTON. Here is the gorge up here where one company is operating. I assume it has come in and made its locations and done work, and the conduits are there, and it has continuously prosecuted the work up to to-day. Now, your engineers can easily figure out what the natural outlets for that particular concern are up in that gorge in the way of transmission lines. They are not going to get any more storage possibilities; they are not going to get anything but an outlet for transmission for their plant. And that is right. What is the use of their power unless they can get out by transmission lines?

Now, do you want to bar them, having this project here and developing it, and having spent hundreds of thousands of dollars on it, from getting out with transmission lines, which you can almost figure out now will be only 50 or 200 feet in width, and when you

can figure now what direction they will go, and to that extent they are going to traverse a narrow strip out to the south and out to the north. For instance, can you not say that the running of the transmission lines out from this particular project which you mention there, that contemplating any plans you may have, you can say those transmission lines would never interfere with you except to this extent, where the transmission line comes up toward Nevada and your transmission line comes toward Nevada they have to cross it? It is not conceivable that the transmission line taken away from this project is going to cover exactly every foot of land your transmission line is going to traverse. And to what extent would that transmission line from that very project cover the exact land which you would want to traverse with your transmission, except to the extent of crossing it?

Mr. MATHEWS. I do not know. But I say the bill with that language in it would have the effect of suspending our right to obtain rights of way under the bill, so far as Mr. Adams's company is concerned, for a period of six months after the passage of the act, because transmission may go anywhere in the territory in which we require rights of way.

Mr. ELSTON. Then it is very easy for us to put that language in in such a way that it won't bar you. I do not see the applicability or practicability of that thing, but I know it can be drawn so it won't apply.

Mr. MAYS. If your bill takes immediate effect, will it in any way preclude individuals or companies or whoever it may be from securing rights of way to get out from their property with transmission lines?

Mr. MATHEWS. Yes; it would interfere until we had selected ours.

Mr. MAYS. They could not until you had selected yours?

Mr. MATHEWS. I will admit that.

Mr. ELSTON. They are barred until 1922 from exercising those rights. Those people would be barred until 1922 from making any applications to get out at all, because the city has an exclusive.

Mr. MAYS. Is there not some way to get away from that?

Mr. MATHEWS. It is true if the words "or transmission" that is written in our bill, if it becomes a law, is suspended as against that company for six months after it becomes a law, and that would be unjust and unreasonable.

Mr. ELSTON. Can you think of language that would preserve your rights as to an exactly identical strip of land which each traverses? Of course it won't be exclusive of the other.

Mr. MATHEWS. When the question came up as to how much time should that company have for getting its maps filed last spring, they said they thought they could get them in in three months. Then I said to take six months. Now, they are going to have that six months and six months in addition because we did not get that bill through.

Mr. MAYS. If your bill passes and takes immediate effect, how long would it tie them up?

Mr. MATHEWS. It would tie them up after six months from the passage of the act and until December 31, 1922.

Mr. MAYS. I say, if it is not suspended for six months, but takes immediate effect, how long would it tie up these other people?

Mr. MATHEWS. Until 1922, theoretically.

Mr. MAYS. That is a rather long time, is it not?

Mr. MATHEWS. On that line, I am willing to do anything that is reasonable. We do not want to tie them up indefinitely; we do not want any longer time than is necessary for our own purposes—six months.

Mr. TAYLOR. What conflict is there likely to be there? You have a right to cross each other's rights of way, have you not, if you do not damage each other?

Mr. MATHEWS. I do not think there is any actual practical difficulty involved, but it would be a serious matter if the act suspended for six months our right to file our maps and obtain rights of way, as against not only development work, to which we agree, but transmission rights of way for the Adams Co. anywhere in the whole territory covered by the act.

Mr. TAYLOR. Why do you want to suspend the other fellow then?

Mr. ELSTON. Just let me interrupt right there; I want to pin that statement down. From your present view the exercise of the rights by this particular power company, under any possibility you can figure out now, would never interfere with the exercise by you of the rights to develop your own power possibilities. The only possibility of there being a conflict in one of these rights with these people would merely be an interpretation of the language here serving as a sort of a withdrawal order until they have filed their applications?

Mr. MATHEWS. I do not know what Mr. Adams's plan is to carry the power to Los Angeles or to Arizona, or Nevada.

Mr. ELSTON. You can not conceive of his making application for exactly the same strip of land?

Mr. MATHEWS. It is not likely, but it is possible——

Mr. ELSTON. And you can not conceive of anything except the possibility of the rights of way crossing at right angles, the two lines?

Mr. MATHEWS. No. This says we are to have until December 31, 1922, to make our selection. We will be ready to act under this act within a very few months after it becomes effective, and we will not need at that point or at any place I can imagine, where that company would be interested, the full time the act provides.

Mr. ELSTON. When your maps are filed immediately the whole territory is released?

Mr. MATHEWS. Absolutely.

Mr. ELSTON. That is what I want to understand, when your maps are filed the whole territory is released?

Mr. MATHEWS. Yes.

The CHAIRMAN. Has the Adams Co. any applications filed now for rights of way for transmission lines?

Mr. MATHEWS. I do not know. He said last spring he was going to file them; I do not know whether he has filed them or not.

The CHAIRMAN. Have you, Mr. Adams?

Mr. ADAMS. Yes; there is one on file, and we possibly will have to amend that one.

The CHAIRMAN. Now, Mr. Adams, the language in the proviso, beginning with line 17:

And provided further, That the grant hereby made shall not apply to rights of way for the development of hydroelectric power.

It is your construction that that language does not embrace transmission lines?

Mr. MATHEWS. Yes.

Mr. ELSTON. Have you been advised to that effect?

Mr. MATHEWS. That is true, is it not?

Mr. ADAMS. Yes; I have been advised to that effect. I submitted this to Judge Finney, who drew this particular section. He said the intention was, of course, to give this company full rights, and he thinks the amendment is very proper.

Mr. MATHEWS. I would like to have Mr. Finney here. I had no intention whatever to include transmission in that proviso.

The CHAIRMAN. What was the object of giving lands for the development of hydroelectric power and not giving them for transmission lines?

Mr. MATHEWS. For this reason: They were at work in the gorge trying to develop power and they had the benefit of existing acts under which they filed applications for rights of way for transmission lines. Those did not interfere. And in that way they could file, and it now appears have filed, applications for rights of way for transmission.

The CHAIRMAN. And they would get in ahead of you?

Mr. MATHEWS. No; the reason the six months provision does not include transmission and was not intended to include was because, as we understood from them, they had their maps for transmission about ready to file and it was not necessary to make any special provision for transmission.

The CHAIRMAN. How will their transmission lines interfere with you?

Mr. MATHEWS. I do not know. I do not know where they are, because they have had various projects for transmitting that power, some in one direction and some in another.

The CHAIRMAN. Is it likely their transmission lines will occupy any land you will need for storage purposes?

Mr. MATHEWS. No.

The CHAIRMAN. Then I do not see how their transmission lines are going to interfere with you.

Mr. MATHEWS. Except this provision written in here would suspend our rights to select rights of way for transmission lines for six months after the passage of this bill, in their behalf; that is, after the passage of this bill we are tied up for six months and they are not.

Mr. ELSTON. Could we not add a proviso—

Provided, however, That the rights herein given to said corporation shall not in any way interefere with the rights of the city to make and file applications for similar rights of way for its project.

That means that would relegate both of you back to your present status, where you would be without any law.

Mr. MATHEWS. I am approaching that as a——

Mr. ELSTON. You get my point? The proviso could be made there that any rights given to this company to put in such transmission lines out from the gorge, shall not in any way be construed as a bar to the city to filing its applications for rights of way at any time over any territory, in which case it will be merely a race

between you. Now, if it is a race between you, I understand, notwithstanding they might beat you to it, you would not be prejudiced by it, inasmuch as the applications would not cover the identical ground. I think that is the common sense view. You present some language in this bill as being something that is insuperable. It is not insuperable; we can add an amendment which will do you both justice and obviate this option or this bar which you say this language is against you and in their favor.

Mr. MAYS. Are there any gorges or canyons through which those transmission lines might go that are capable of accommodating only one transmission line?

Mr. MATHEWS. No, there is no physical opportunity of monopoly in that regard.

Mr. MAYS. That sometimes happens as to railroads.

The CHAIRMAN. Is there any statute in the State of California to the effect that in a narrow gorge there may be a joint use of trackage for railroad purposes? Most of the States have that.

Mr. MAYS. That is true of common carriers, but it is not true of transmission lines, I understand.

Mr. MATHEWS. There is no physical situation there that makes that a matter of moment. Our chief objection is, that if you put in the words "or transmission" it would tie our hands as against that company for six months, and we will have to wait until they get through, because transmission may extend to any part of the territory covered by the bill, even down to Los Angeles.

The CHAIRMAN. Can you not conceive of some language that will accommodate both of you?

Mr. TAYLOR. Is there anything to prevent both of you from crossing the right of way?

Mr. MATHEWS. They can run over ours and we can run over theirs if you do not tie us up.

The CHAIRMAN. How are we tying you up if you both use the same locus?

Mr. MATHEWS. I mean do not tie us up by anything you say in the bill where we can not enjoy the usual exchange of courtesies.

The CHAIRMAN. We do not want to tie you up or them, if we can accommodate both of you.

Mr. ELSTON. I would say if your construction there, that if that language is used it would be a superior right given them over you to make application, a mere option over you to set out your right until they have exercised it. I should say your point is good; but if you put language in there, that any right conferred on them in there shall not operate as a bar upon you to make application at any time and to make use of any rights of way at any time over any of this territory, then I say it is a mere inference, because you will never conflict on account of the territory traversed by those ditches.

Mr. SMITH. Do the power companies contend they have a superior right to file over you, and for that reason they want that provision? If you both have equal rights, why do you want that provision in there at all?

Mr. MATHEWS. The power company thought the bill as drawn last spring might prejudice their opportunity for development and, for that reason, asked that the bill expressly exclude their development for six months after the act was passed, and we agreed.

Mr. SMITH. Is there any desire or intention on the part of the city of Los Angeles to prevent this company having transmission lines?

Mr. MATHEWS. Not at all, but we do not want to legislate in our bill in their behalf.

The CHAIRMAN. Have you any suspicion they are trying to legislate against you?

Mr. MATHEWS. Not at all. I do not think Mr. Adams is that kind of a man.

Mr. KETTNER. Is there any controversy between the city of Los Angeles and the Southern Sierra Power Co. in regard to transmission lines?

Mr. MATHEWS. Not a bit. That company crosses our privately owned lands for 40 miles without any trouble.

Mr. KETTNER. That company is the company that developed the power in Mono, Inyo, and Kern Counties, and feeds my entire district. It carries power clear to Yuma.

Mr. DIXON. May I make a statement: From some very pronounced statements here, Mr. Chairman, I realize I am in rather a cold climate. I hope the Southern Sierra Power Co.'s claims may not be adjudicated until we are heard. I am satisfied every member of this committee wants to see fair play, which is the American spirit. After you have heard our side, you can then put us out in the cold, but let us have a hearing before our case is concluded against us.

Mr. RAKER. I understand this committee is hearing these people now, and after they get through all the rest of the people will have a full opportunity to be heard; is not that true, Mr. Chairman?

The CHAIRMAN. Certainly. You are not being concluded by the statements made here, but you will have a full opportunity to be heard.

Mr. DIXON. There is a serious conflict between the company and the city, notwithstanding the statement of Mr. Mathews.

Mr. MATHEWS. I am not aware of it.

Mr. MAYS. What has become of Owens Lake since you have diverted the water away from it?

Mr. MATHEWS. It is gradually subsiding. There are several soda plants on Owens Lake, and one of them is suing us for taking the water out of Owens Valley to the detriment of their project.

The CHAIRMAN. What is to prevent the city from presenting to the committee its map of definite location and survey, so that we might know now exactly what the city wants?

Mr. TAYLOR. We might, in that same connection, have these companies present their maps of definite location and survey, and let us tie all of them down, if we are going to tie down one.

Mr. SMITH. We are not asking them to locate their rights of way on the public domain.

The CHAIRMAN. I am looking for the facts; I am not asking him to locate his rights of way on the public domain. I do not want you to draw any inference of that kind.

Mr. SMITH. What difference does it make now whether they are going in section 21 or section 29?

The CHAIRMAN. I want to know for my own knowledge why could you not present to the committee your map of definite location?

Mr. MATHEWS. Our project is not fully developed. As I say, we expect to develop power on certain side streams in Owens Valley, and it is necessary to complete certain negotiations and make certain contracts on those streams, because those streams are already fully taken up, so far as irrigation is concerned, and in order to get in you have to reckon with the irrigators. They will not allow you to go in and develop power on those streams, particularly where storage is involved, except under conditions agreed to by them.

The CHAIRMAN. That is what I want to know, why it is you can not locate your system.

Mr. MATHEWS. For instance, on the Big Pine Creek, which is one of the streams, we have just signed a contract by which we are allowed to develop power if we put in storage and also put in a lot of money to enable them to reconstruct the local irrigation works. That has just been finished after two or three years of negotiation, and for the first time we are enabled to develop power on that stream with their consent.

Mr. ELSTON. And all that serves to delay you until you compose all those differences?

Mr. MATHEWS. Yes.

Mr. TAYLOR. I do not think it is good policy to require the witness to state every one of those big power companies in advance that the city may have to negotiate with. It might be detrimental in various ways.

Mr. ELSTON. What Mr. Mathews has mentioned here looks like a very reasonable excuse for not hurrying. They have a thousand things to accomplish.

Mr. TAYLOR. All of you California members of this committee have been for years appealing and telling us how hard it is for a large city to work as expeditiously as a power company could, on account of having to ask the people to vote bonds, and you said the big power companies could file locations in five minutes, that they have their maps and plats and surveys of its engineers and have their lines all located, and all they have to do is to press a button and go ahead. But for the city it takes a great deal of time and often, as in this case, the city is sued and harrassed by the power companies and impeded in every way. Mr. Baker and Mr. Kettner have very forcibly presented the great variety of obstacles that prevent expeditious action by a large city. Every conceivable adverse interest tries to throw monkey wrenches into the city's works whenever they try to do something for the people.

Mr. MATHEWS. There is another difficulty: We have to have money voted by bonds to carry out the project. Since seeing you last spring, we have had an election on bonds for power purposes of thirteen and one-half million dollars, and we voted the bonds all right. But a power company carried us into court almost instantly with six or seven lawsuits, and so we will have to take two or three years' time to litigate with the company before we find out if we have any money to carry out the project.

The CHAIRMAN. You do not deem it advisable to complete your plans until this act is passed?

Mr. MATHEWS. No.

Mr. KETNER. That is not the Southern Sierra Power Co. you refer to?

Mr. MATHEWS. Not at all.

Mr. RAKER. Supposing this proposed amendment, when put in proper form, was adopted by the committee and that leaves the right to file homesteads, desert-land claims, and applications for water rights, reservoirs, and canals to anyone who desires to file them, giving the city of Los Angeles the same right to file upon any of this territory it desires for power reservoirs, reservoir sites, canals, pole lines, and otherwise, and then making a proviso in substance, but not in the language, something like this, that the city of Los Angeles shall be given the prior right of way for necessary buildings and structures to be used in connection with the construction, operation, and maintenance of said water power in the electric plants, power, and electric plants, poles, and lines for distribution and generation of electric energy, and when there is any conflict with any other person, association, or corporation, the Secretary of the Interior shall approve the city of Los Angeles' application if in proper form and substance and, when possible, to adjust all applications so it may obtain such right as it shall be entitled to, always giving to the city of Los Angeles the preference? Now, drawn in a proper way to cover that idea, you would allow all of them to develop, and allow the city of Los Angeles to file its applications and these other people to file their applications, and when the city gets its on file within the length of time, then the Secretary of the Interior shall adjust and give to the city of Los Angeles applications the preference and it would not hold up any other developments. Would such an idea, properly couched in appropriate language, be acceptable?

Mr. MATHEWS. May I ask you a question so that I may get the case?

Mr. RAKER. Certainly.

Mr. MATHEWS. Are you having in mind any difficulties we have been discussing here on the proposed amendment?

Mr. RAKER. I am taking all the difficulties that have been discussed and as presented by this proposed amendment and as discussed heretofore, to the end that the city of Los Angeles may be given a prior right to file its various applications as provided for in this bill, during the time designated in the bill and the extension and also for construction; but when it has filed its plats they will know definitely what they want to do and, in the meantime and at the same time, these other parties may file their applications for rights of way, pole lines, etc., but none of them will be acted upon until Los Angeles' time has flowed.

Mr. MAY. That is 1922?

Mr. RAKER. Whatever we may fix it; we can fix the date—the city of Los Angeles being given the preference when the Secretary comes to approve it, so that there will be no cessation of improvement by anybody in that county under any circumstances.

Mr. TAYLOR. All these suits the power companies bring against the city and litigate for five or six years to be held not to interfere with them?

Mr. RAKER. I am not talking about suits; I am talking about the public domain.

Mr. VAILE. And the Secretary to approve of those?

Mr. RAKER. The way the bill is, nothing can be done by anybody; the land is all withdrawn as by a blanket order.

Mr. OSBORNE. Is not that covered by section 3?

Mr. RAKER. No; it is not.

Mr. MATHEWS. The bill is better as to the territory up there than that; it holds the country open for irrigation purposes until we file our maps, and the passage of the act or the approval of the act does not withdraw the land as against irrigation, and the people interested in irrigation can file applications for rights of way and the territory is open for that purpose until we file our maps for our rights of way.

Mr. RAKER. Then the only length of time you have is six months or a year, but when you file your maps all development is ended until you get it properly disposed of, irrigation and otherwise. If, as a matter of fact, there is enough water that can be developed and canals laid to irrigate 250,000 acres of land, that will not interfere with you people at all; you do not want to prevent that?

Mr. MATHEWS. Not at all.

Mr. RAKER. And if there are other companies supplying electric energy to cities, you do not desire to prevent them from proceeding so long as they do not interfere with the Los Angeles right of way; is not that true?

Mr. MATHEWS. That is true.

Mr. RAKER. The main thing is you want to protect Los Angeles so they will have a prior right; is not that true?

Mr. MATHEWS. Yes.

Mr. RAKER. And if that is done, you have got all you are seeking in this bill; is not that right?

Mr. MATHEWS. I think you are stating correctly the situation.

Mr. RAKER. Now, if we can so amend this bill so as to protect the city by giving them a prior right and at the same time permitting complete development as to irrigation and complete development as to other electric plants desiring to generate electricity for the purpose of supplying other municipalities, you think it ought to be done?

Mr. MATHEWS. Yes. We do not ask you to hamstring them.

Mr. RAKER. No. It seems to me this committee can, by appropriate language, fix that in this bill.

Mr. BARBOUR. There is just one part of that amendment which says where the rights conflict that the rights of the city of Los Angeles——

Mr. RAKER. The city of Los Angeles and these other parties have not their applications filed. They will immediately go and survey, and you know it takes time. Now, under this bill, they are not going to be prevented from developing ultimately. The city of Los Angeles will survey its land reservoir sites, canals, lines for ditches, and pole lines, and they are all right in the country where these people are; and when they have put them on the map and filed them, if reasonable, the Secretary of the Interior will approve them and these people will know. They will then, at the same time, be making surveys and providing their plats, and there won't be one case in a hundred where there will be any possibility of conflict, but if there is a conflict they will know it and they will know that the Secretary of the Interior will grant a right to the city of Los Angeles and if there is a conflict that conflict can be adjusted by the Secretary of the Interior in making the order.

Mr. ELSTON. But you hamstring the city and the private people to this extent: The city, under that kind of an amendment, not knowing what is going to be in conflict, could get no rights granted to it until the expiration of 1922, whereupon the secretary would have to make a survey of all these cross applications and then give the preference to the city, and to that extent it would delay the city.

Mr. RAKER. No.

Mr. ELSTON. They have priority as to those in the same way.

Mr. RAKER. This bill, as it now stands, if enacted into law, all other companies are prohibited until the City of Los Angeles gets through sometime in 1927.

Mr. ELSTON. 1922.

Mr. RAKER. 1927, in its rights of mapping, and so forth, and no other development can be made until after that time.

(Thereupon, at 11.45 o'clock a. m., a recess was taken until 2 o'clock p. m.)

AFTER RECESS.

The committee reassembled at 2 o'clock p. m., pursuant to recess.

The CHAIRMAN. Proceed, Mr. Kettner.

STATEMENT OF HON. WILLIAM KETTNER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA—Resumed.

Mr. KETTNER. Mr. Chairman, as I stated this morning, the headwaters of the Owens River are in my district, to wit, in Inyo County and Mono County, and naturally I am interested to the extent of seeing that there is no chance for a controversy between the city of Los Angeles and the hydroelectric systems already established and serving my district.

This is a map of the ground that is covered by Mr. Osborne's bill, 406 [indicating].

I might here state that it is not my object, nor do I understand that the people who are interested in these plants want to take any of the rights away from the city of Los Angeles, but they want full protection.

You will notice by the map that the power lines run parallel with the aqueduct for a great many miles. They run over your territory some 60 miles, I believe, do they not?

Mr. MATHEWS. Thirty, of land we own, I think.

The CHAIRMAN. Which are the power lines on the map, the ones in red?

Mr. KETTNER. The red; yes.

All I ask the committee to do is to see—and I feel certain they will—that there will be no chance of controversy between the two companies. As Mr. Mathews stated this morning, there was no controversy between the Southern Sierras Power Co. and the city of Los Angeles.

The CHAIRMAN. You mean Los Angeles on one side?

Mr. KETTNER. And the Southern Sierras on the other—although I believe Mr. Dixon took another view of it and said there was a controversy.

Mr. DIXON. There will be a conflict arising from this bill.

Mr. KETTNER. From the present bill?

Mr. DIXON. Yes.

Mr. KETTNER. Well, in the communications I have received from my constituents they have suggested two amendments. I believe you have submitted, or Mr. Fritz has submitted, the same amendments, or will submit the same amendments a little later.

Mr. FRITZ. Yes.

Mr. KETTNER. Well, I prefer then that Mr. Fritz and Mr. Dixon, who I know will be given the proper hearing, will submit the amendment.

The CHAIRMAN. Do you agree with the amendment they are going to submit?

Mr. KETTNER. I agree with the amendment they are going to submit. Mr. Dixon, as I understand it, is representing the Southern Sierras Power Co., and I want to state, Mr. Chairman, as I have stated before, that they furnish the most of power for my district.

The CHAIRMAN. What is this Southern Sierras Power Co.? What are its operations and functions?

Mr. KETTNER. They develop hydroelectric power in Nevada and in eastern California. That is Mono and Inyo Counties. I don't believe they go to Kern County, do they?

Mr. DIXON. Yes; we go to Kern County.

Mr. KETTNER. And it is transmitted mostly to my district, to San Bernardino County, Riverside County, Imperial County, and I believe some into Orange County, the eastern end of Orange County.

Mr. DIXON. I don't think it quite touches it.

Mr. KETTNER. Well, I thought from the map that it did.

That is where I am interested, Mr. Chairman, and I think Mr. Mathews has shown himself fair enough, and Mr. Osborne I feel will see that there is a proviso put in there that the rights of way are fully protected. I don't think from what I have heard here this morning that there will be any controversy, and all I ask the committee to do is to see that they are protected, because they are old established companies, and they have been the means of developing to a large extent the desert, in which I am greatly interested. From the correspondence, as I understand it, I haven't been able to see where they are asking for anything more.

The CHAIRMAN. According to this map the Los Angeles Aqueduct will cross the power right of way in two places.

Mr. MATHEWS. It does now. That is all settled.

Mr. KETTNER. I believe there was some controversy, Mr. Chairman, when they got some of those rights of way; that is, the Southern Sierra Power Co.—from Los Angeles. I believe there was some controversy and Los Angeles required a certain amount of other rights that they possessed. But that is in the past, and that is the reason I again make the statement. I hope the committee will protect them so they will both know just where they stand so far as the rights of the United States are concerned.

The CHAIRMAN. Now is that all you have, Mr. Kettner?

Mr. KETTNER. That is all. I hope, Mr. Chairman, that you will see that Mr. Fritz gets a full hearing, and Mr. Dixon and Mr. Edgar.

I am very sorry I have to leave, but I am in a peculiar position; we offered the Navy a certain amount of land in San Diego, and while we have got most of it, our people have wired me to come back to assist in raising the balance.

The CHAIRMAN. This section that you have marked in olive on the map is what they want?

Mr. KETTNER. That is the section that is covered by the present bill.

The CHAIRMAN. Do you think we can and ought to formulate legislation that will enable these various parties to live happily ever afterwards?

Mr. KETTNER. My faith in the committee is unlimited.

The CHAIRMAN. It is mutual. [Laughter.]

Mr. KETTNER. But I do feel, Mr. Chairman, that the committee will see that all parties are given a square deal.

The CHAIRMAN. Do any of you gentlemen wish to interrogate Mr. Kettner?

Mr. MATHEWS. I would like to make a statement before Mr. Kettner leaves, so that he may be reminded and realize forever more that one of the largest taxpayers in his district is the city of Los Angeles. It is the largest landowner, I believe, in Mr. Kettner's district, and pays taxes to the extent of more than $20,000 in the county of Inyo. Whereas these two power companies are citizens of other States, we are citizens of California and live in your district, to the extent of owning that amount of land and paying that amount of taxes in your district.

Mr. KETTNER. Mr. Mathews, as I stated, I don't think that the city of Los Angeles wants anything that isn't fair, and my clients only want protection, as I understand it, and I have no fear—if I thought the committee would not treat them fairly I would not leave, but I know they will, and I feel satisfied that you will grant any concessions that the committee thinks are right.

Mr. OSBORNE. Before Mr. Kettner leaves I would like to ask him if he remembers the bill which he introduced in the last Congress, being an act to grant rights of way over Government lands, to build dams for reservoir purposes for conservation and storage of water for use by the city of San Diego, Calif., and for other purposes? I assisted him, in so far as I could, in passing this bill, and I want to ask him if there is any essential difference in the general purposes of this bill and that which I have introduced and which is under consideration here.

Mr. KETTNER. There is not. The city of San Diego was seeking water rights and the committee was kind enough to grant their request.

Mr. OSBORNE. I would ask if in their general purpose there is any differences in the two bills?

Mr. KETTNER. As I understand it, there is no difference.

The CHAIRMAN. Were you a party to some agreement that was reached in the last session concerning this legislation?

Mr. KETTNER. I was. I thought my people were fully protected, and Mr. Mathews and Mr. Osborne consented to all of the amendments that I offered at that time.

The CHAIRMAN. Are they in a quarrel in this bill that we are considering now?

Mr. KETTNER. This bill is written, I believe—am I right, Mr. Osborne—to conform to the amendments I offered at the last session.

Mr. OSBORNE. Exactly.

The CHAIRMAN. What objection, then, do you have to this bill?

Mr. KETTNER. I have really no objection, as I understood it at that time, with the exception that these power lines should be given—or should be protected to the extent that their present systems will not be disturbed.

The CHAIRMAN. Well, if you agreed upon the present Osborne bill for last session, has something come up since that time?

Mr. KETTNER. Yes.

The CHAIRMAN. What is it?

Mr. KETTNER. The power company has written me that they did not know anything of the Osborne bill at the time it was considered.

The CHAIRMAN. It is the Southern Sierras Power Co. that is objecting?

Mr. KETTNER. The Southern Sierras and the water users of the lower portion of Kern County, and Inyo County.

The CHAIRMAN. Weren't they represented here at the last session?

Mr. KETTNER. They were not; no. Mr. Fritz and Mr. Edgar were not represented at the last session. But, as I understand it, the city of Los Angeles does not wish any more water; they want the right of way for water.

The CHAIRMAN. Well, when they say they say they don't wish any more water, they mean they don't wish any more water than they have appropriated or filed on; but they are actually going to convey more water than they are conveying now? Is that true?

Mr. KETTNER. Well, yes; I understood Mr. Mathews to say they were going to convey more. But even then, there is plenty of water up there still. Even after they fill their ditch, as I understand it, there is water in Inyo County to spare.

Mr. MATHEWS. Not this year. But this is the dryest year we have had in 40 years.

The CHAIRMAN. Do any of you gentlemen want to ask Mr. Kettner any questions?

Mr. MATHEWS. This amendment that we want to take up—we do not want that amendment—we regret that Mr. Kettner is going to be away, but we think we can meet the parties, at least so far as the Inyo people are concerned, on satisfactory ground, if I understand the amendment you are referring to. We will undertake to do that, whether you are here or not, Mr. Kettner.

Mr. KETTNER. Thank you. I might read the amendment, Mr. Chairman.

The CHAIRMAN. All right.

Mr. KETTNER (reading):

SUGGESTED AMENDMENT TO H. R. 406.

Add a new section reading substantially as follows:

"SEC. 9. The rights of way hereby granted to the City of Los Angeles are not exclusive, and nothing in this act contained shall be construed as preventing the granting of rights of way for pipes, pipe lines, canals, ditches, flumes, tunnels, or reservoirs for the conveyance, delivery, or storage of water for

irrigation, mining, or domestic purposes, or for the generation of electric power, including rights of way for the construction of power plants, towers, and transmission lines for the generation and delivery of electricity, under existing laws of California and the United States or that may be enacted hereafter, to any person, association, or corporation, over, through, upon, or across the lands affected hereby."

Mr. MATHEWS. We would like to speak on that.

The CHAIRMAN. You will have an opportunity.

Mr. KETTNER. Mr. Chairman, I would prefer that Mr. Fritz, when the proper time comes, and Judge Dixon, discuss that. I am not a lawyer, as you are aware.

May I have the privilege of inserting this statement, which gives the views of these people? It is too long to read, but I can put it in the record and you can all see it.

The CHAIRMAN. Whose statement is it?

Mr. KETTNER. It is submitted to me by the Southern Sierras Power Co.

The CHAIRMAN. Without objection that will go into the record in connection with your remarks.

(The paper referred to follows:)

RIVERSIDE, CALIF., *July 25, 1919.*

Mr. A. B. WEST,
Vice President and General Manager the
Southern Sierras Power Co., Riverside, Calif.

DEAR SIR: I have examined and herewith hand you my opinion on H. R. 406, a bill amending an act entitled "An act authorizing and directing the Secretary of the Interior to sell to the city of Los Angeles certain public lands in California, and granting rights in, over, and through the Sierra Forest Reserve, the Santa Barbara Forest Reserve, and the San Gabriel Timber Land Reserve, California, to the city of Los Angeles, California," approved June 30, 1906.

This bill, which purports to be an amendment to the Los Angeles aqueduct bill of 1906, is in reality not only a revival of that act, which expired, so far as initiating rights is concerned, in 1909, but also an extension as regards the territory affected. In the proposed bill sections 1, 2, 3, and 5 of the act of 1906 are amended, and sections 4, 6, and 7 of the former act are left in force. A new section, section 8 being added by the proposed bill.

CHARACTER OF AMENDMENTS.

1. *Territory.*—The act of 1906 granted to the city of Los Angeles necessary rights of way for its aqueduct wherever the city might select them through the counties of Inyo, Kern, and Los Angeles, and through the Sierra and Santa Barbara Forests and San Gabriel Timber Land Reserve, except lands upon Bishop Creek or its branches in the county of Inyo. The proposed bill adds to this territory that part of the county of Mono which is drained by Owens River, also adds the Inyo National Forest, and parts of the Angeles National Forest and the Sequoia National Forest. There is exempted from the territory the lands upon Bishop Creek and its branches, also the Kern River drainage basin in Kern County and Fish Sloughe Reserve site in Inyo and Mono Counties.

The lands affected can be visualized best by an examination of the accompanying map which shows that the territory reserved for the city of Los Angeles constitutes a broad belt of land extending entirely across the State of California and taking in parts of six large counties. The map indicates the power lines of The Southern Sierras Power Co. and its associated companies and also the aqueduct of the city of Los Angeles.

2. *Time.*—Under the act of 1906 when the Los Angeles aqueduct was in its infancy, Congress reserved, subject to the use of the city of Los Angeles, a large part of this same territory, giving the city one year within which to file its maps indicating the rights of way desired by it for its aqueduct, and two years for amending the same. Now, with the aqueduct completed and in operation, and with only certain power house sites and transmission lines to be

erected by the city, they desire a period of more than three years, or until December 31, 1922, to file and amend their maps securing these rights of way, the proposed bill so provides.

Thus the proposed bill is an enlargement both in territory and in time of the act of 1906, although it must be apparent that the city has a much smaller amount of work now to do than it had at the inception of the aqueduct venture.

The bill constitutes a withdrawal and blanket option to the city of Los Angeles on millions of acres of public lands.

The bill provides that there shall be granted to the city of Los Angeles all necessary rights of way, not to exceed 250 feet in width through all the territory above described, for the purpose of constructing, operating, and maintaining canals, ditches, pipes, and pipe lines, flumes, tunnels, and conduits, and also power and electric plants, poles, and lines for the generation and distribution of electric energy. The bill therefore constitutes a present grant to the city of all of this territory, subject only to the condition that the city shall file a map upon such part as it desires for the purposes named. In other words, all of the described territory, so far as the Government lands are concerned, is segregated and withdrawn to the sole use of the city of Los Angeles, and the city is given the privilege of roaming over this vast territory with its ditches and electric lines to the exclusion of every other person, firm, or corporation, at least until December, 1922.

The Southern Sierras Power Co. and associated companies with their plants upon Bishop Creek and their plants in Mono County have run their transmission lines through counties of Mono, Inyo, and Kern, and practically all of such transmission lines are now located upon rights of way surrounded by the land which would be withdrawn under the proposed bill. These companies would therefore find their transmission lines and rights of way held with a vice-like grip between land, not merely in private ownership, but worse; land in Government ownership withdrawn with a special purpose, and no rights therein could be obtained by condemnation, nor any application, petition, or any proceeding whatever between now and December, 1922—thus, if one of these companies should desire to run a distributing line to a newly-developed mine, salt works, or other industry, in the segregated territory, or should they seek to build a tie line connecting two parts of their system, or to make any movement whatever in any direction from their existing rights of way, there would be no means under the sun by which they could do it between now and December, 1922.

On the day that this proposed bill becomes law, which the aqueduct people might very properly toast as "der tag," it would be and become the duty of the Secretary of the Interior to withdraw from entry settlement, right of way application, and every other proceeding, this entire stretch of public land and forest reserve, except those made by the city of Los Angeles. It might be that the city of Los Angeles would never use any of this land; it might be that they would ultimately use all, or a large part of it, but regardless of what they use, or intend to use, which nobody can determine until December, 1922, no one else can turn a shovelful of dirt in any of this broad territory without permission from the city of Los Angeles.

HEARING BEFORE PUBLIC LANDS COMMITTEE, HOUSE OF REPRESENTATIVES.

This purpose of the bill was very cleverly discovered and brought to light in the hearing before the Public Lands Committee of the House of Representatives, when a bill identically the same as this one was before the Sixty-fifth Congress. I say cleverly discovered for the reason that it appears when the representatives of the city of Los Angeles first went before the committee on January 28, 1919, the committee, whether by their own fault or the fault of the city's representatives, obtained the idea that the proposed bill asked merely for the rectification of certain departures which the aqueduct had made from the rights of way granted under the act of 1906, and did not operate to confer upon the city any new or extended rights over the public domain. I make the following excerpts from the transcript of the hearing before the Committee on Public Lands, House of Representatives, Sixty-fifth Congress, third session, on Senate Bill No. 4023, which was the number of the bill in that session. In part 3, at pages 44 and 45, the following appears:

"Mr. KETTNER. In answer to Mr. La Follette I wish to state that the bill, as it reads at present, covers the whole valley and will permit them to file on every inch of land and forest reserves in the several counties mentioned in the bill.

"Mr ELSTON. I do not understand that. I remember distinctly asking Mr. Mathews about that matter. I asked him whether the granting of all the powers conferred by this bill would utilize any power or water which he could not have utilized exclusively himself, and which they would have utilized and would have barred from utilization by others if the bill were not passed; that is, would the bill cover into the possession of Los Angeles anything which it did not already have an option on, or hold on, and which they could have used for all time. I understood from Mr. Mathews they were simply going to use what they had for their own. And I got the impression, so far as the power project proposition was concerned, they merely wanted to utilize running water in the aqueduct which was running down and would go to waste unless they were authorized to use it. And I got the impression, when the matter was discussed here, they were not reaching out for anything additional but were merely trying to use that which was going to waste."

After the committee became aware of the true nature of the bill, the following colloquy occurred (id. p. 50):

"Mr. RAKER. Outside of the Mono and Kern River Basins, it permits the city to make filings on any land it may desire, and as much as it may desire, on any lands not excluded in the bill?

"Mr. MATHEWS. Hardly, because the Secretary of the Interior may disapprove. He has the power to determine.

"Mr. RAKER. I know he has the power to determine, but I simply say it authorized the city to file, and it is up to the Secretary of the Interior and the Secretary of Agriculture to approve if they see fit. Is that right?

"Mr. MATHEWS. The Secretary of the Interior may approve it if he sees fit.

"Mr. RAKER. So, that, as a matter of fact, the bill would be a complete blanket over all the territory not included in the bill. Is that the situation?

"Mr. MATHEWS. Not a blanket to that extent.

"Mr. RAKER. And that is new legislation?

"Mr. MATHEWS. Yes; it is new.

"Mr. SINNOTT. Do you mean filing on rights of way or water rights?

"Mr. RAKER. No; land claims. In other words, all rights—canals, ditches, tunnels, reservoirs, and reservoir sites, power-house plants. That would cover the entire counties named in this bill. That is new legislation, and Mr. Mathews admits that, because the bill so states.

"Mr. MATHEWS. I would like to state that we would not get under this legislation anything we could have gotten if the time limits under the existing law, or old law, had not been so short that we could not get to it.

"Mr. RAKER. I know, but the committee somewhat criticized me for asking for a further hearing on the ground that what you asked for in this bill would not be new legislation, but solely a confirmation of what had already been constructed."

And on page 52, the following:

"Mr. RAKER. This bill blankets in all of the counties named and all the territory and every foot of land included that is not already in private ownership; it would be the duty of the Secretary of the Interior to withdraw all land so that thereafter there would be no more canals, ditches, or reservoirs, or anything acted on by the department, no land filings, homesteads, desert, timber or otherwise, until those holdings had been determined. That would hold it up for four or five years, because that is exactly what the department did in 1906, withdrew from filing all land, homestead, desert, timber, and other land. If that is what these people want in the bill, and that is their language now, the representatives from Los Angeles should say so, and these people have the right to say wherein their rights would be jeopardized."

And on page 57:

"Mr. RAKER. They would have the right in Inyo, Mono, Kern, and Los Angeles Counties to file on every piece of land that they might desire in those four counties, for the purposes named, and can have such lands in those four counties for power houses, diverting and storage dams, and reservoirs as the Secretary of the Interior might think necessary, as well as in these three forest reserves.

"Mr. MATHEWS. We do not intend that.

"Mr. RAKER. Let us not hold to the intention. The only question is, What power does this bill give?

"Mr. WATTERSON. To the exclusion of everyone else.

"Mr. RAKER. Let us see if that is not the language of the bill. What a man's intention is and what might be done, and what would be done, we can take up later. Do you agree on that; is that your construction, Mr. Church?"

THE SECRETARY OF THE INTERIOR WOULD WITHDRAW THE LAND FROM ALL APPLICATION.

Certainly if this land is granted to the city of Los Angeles and they may file their maps locating upon any part of it, between now and December, 1922, no other individual or corporation could initiate any rights in any of this land, until it is finally determined what the city of Los Angeles will take. Those familiar with the physical aspect of the country might feel perfectly sure that the city of Los Angeles might not need a particular tract or strip of land, but the Secretary of the Interior would have no power to go against an act of Congress and decide what the city might take, for in this respect the city is the sole arbiter; the least the Secretary of the Interior could do would be to hold up all other applications, and what he would probably do would be to reject them immediately. This is exactly what he did under the Act of 1906, as appears from idem pages 70 and 73.

"Mr. RAKER. Under the prior bills there were withdrawals made?

"Mr. WATTERSON. Yes.

"Mr. RAKER. Within the forest reserves excepted?

"Mr. WATTERSON. Yes.

"Mr. RAKER. The practical question is, Was even homesteading and entering desert lands and making any ditches suspended during all that time?

"Mr. WATTERSON. Absolutely.

"Mr. RAKER. And you are afraid of that under this bill?

"Mr. WATTERSON. Yes; that is exactly what we are afraid of.

"Mr. RAKER. Has not Los Angeles made a specific statement of what they want, and where they want it?

"Mr. WATTERSON. No; because it covers Owens River Basin, which consists, I think,, of 2,810 square miles, according to the statement of the Los Angeles engineers and of Mr. Mullholland.

"Mr. RAKER. The bill covers Inyo, Mono, Kern, and Los Angeles Counties. Right in that connection, let me ask Mr. Mathews if he could state what he wants?

"Mr. MATHEWS. That is absolutely impossible.

"Mr. ELSTON. Do you say the legal effect of this bill, if passed, will be to suspend every application for a ditch or right of way for any kind of outlet of any kind, so long as Los Angeles has not finished the rights she had under the act?

"Mr. WATTERSON. That is our contention exactly.

"Mr. ELSTON. In all these counties?

"Mr. WATTERSON. In all these counties.

"Mr. ELSTON. As to any kind of crossing of Government land for any purpose?

"Mr. WATERSON. Exactly.

"Mr. ELSTON. Mr. Mathews, do you grant that at all?

"Mr. MATHEWS. No; we do not want anything like that.

"Mr. WATTERSON. Nobody wants it.

"Mr. ELSTON. Do you grant the legal effect of it is that?

"Mr. MATHEWS. No; I do not.

"Mr. DIXON. Let me interrupt there. There are phases of this question which can not be answered in a few minutes, but this particular point I wish to call directly to your attention, because it came to me as an official of the United States Government.

"Mr. KETTNER. In what capacity?

"Mr. DIXON. As registrar in the United States Land Office, between the years 1906 and 1910.

"Mr. KETTNER. Located where?

"Mr. DIXON. At Independence, Calif. In relation to the statement that was just made in regard to rights of way, every pending application for a right of way which was supposed to be guaranteed by the act of June 20, 1906, under section 3, specifically, was held up in the department for three years under this order of Secretary Garfield, which has been quoted. I have not a copy of the law in full. And subsequent to the expiration of that time practically

every application for right of way has been denied under the ruling of the department and the Geological Survey, that our rights of way on our reservoirs were more valuable for power than for irrigation. I will say that subsequently, in relation to one of the reservoirs on which I filed on behalf of the community, which was held up in this manner, lately the department reversed its action. The record of that case I am not able at the present moment to present to you, but I hope to be able to do so. I have not been able to secure action on that application. The right was granted to another individual for the same purpose specified in my application, thereby shutting me completely out."

THE SECRETARY OF THE INTERIOR HAS NO POWER TO CONTROL THE CITY OF LOS ANGELES.

It is true the proposed bill provides in section 1 that the maps filed by the city must be approved by the Secretary of the Interior, but this gives to that official no discretion to do more than ascertain that the map and application of the city is in proper form. The land would already be granted to the city by the act of Congress. The Secretary of the Interior would necessarily have to approve the maps when properly filed. 'If Congress should grant this land to the city what interest would the Secretary of the Interior have in trying to nullify the act of Congress and what purpose would he possibly have in acting inimically to the interest of the city of Los Angeles?

Such was the construction placed upon the bill by the Committee on Public Land. (See idem., p. 56.)

"Mr. RAKER. This is a right to file whenever and wherever, within the four years, and then it is up. And the Secretary of the Interior determines whether or not they are necessary. Is that not a fair interpretation of the bill?

"Mr. WATTERSON. Such lands as necessary.

"Mr. OSBORNE. Such lands as necessary.

"Mr. ADAMS. This does not say the Secretary of the Interior has any option in the matter, except to approve them.

"Mr. RAKER. That is all.

"Mr. ADAMS. I suppose he has no option; he has to approve them.

"Mr. RAKER. Let us see if we can get at the purpose of the bill. It permits the city of Los Angeles to file in four years on any of the lands in these forest reserves, which it may see fit. Is not that true, Mr. Church?

"Mr. CHURCH. I think so."

Also pages 68, 69.

"Mr. KETTNER. It seems to me this bill would stop them for four years.

"Mr. WATTERSON. We were held up for four years. If we can not get a right of way for our water, what is the use of the water? And while we are struggling for the right of way, waiting until they determine what they want or do not want, our rights have lapsed. And that has been the effect of the bill of 1906, which covered us up. Now the provision of the bill of 1906 reads clearly in protecting any pending rights of way, provided, however, that this act shall not apply to nor affect the adjudiciation of any pending applications for rights of way by the owner or owners of existing water rights. And here is an extract from a letter from the Interior Department, in answering a communication from the mayor and other officials of Los Angeles about some applications for a right of way that they wanted at that time. Here is what the Secretary of the Interior says: 'Therefore, all applications for rights of way which are on file and which may be filed and which conflict with any application filed by the city of Los Angeles, or affect any of the withdrawn lands, will be suspended for the period mentioned' (I presume the period mentioned in the bill) 'unless the city consents.'

"Mr. ELSTON. You mean even a pending application?

"Mr. WATTERSON. A pending application.

"Mr. KETTNER. That is the attitude the Interior Department took under the act of 1906.

"Mr. WATTERSON. Which are on file, and which may be filed, and which conflict with any application filed by the city of Los Angeles will be suspended for the period mentioned unless the city consents. Of course, the city would not consent. If they get this blanket lien they would hold on, may be for two years, or four years, or six years from now."

THE LAND IN QUESTION MAY BE WITHHELD FOR MORE THAN EIGHT YEARS, OR INDEFINITELY, IN THE DISCRETION OF THE SECRETARY OF THE INTERIOR.

While the proposed bill allows the city until December, 1922, to file its maps, this is in fact not the extreme period for which the land may be segregated. Section 4 of the proposed bill which amends section 5 of the act of 1906, among other things, provides (p. 6, lines 14–22):

"That if any power or electric works or structure to be used in connection therewith shall not be completed within five years after the approval of the map or maps of right of way for such works or structure as herein provided, or within such additional time as the Secretary of the Interior shall, in his discretion, grant, then such rights herein granted shall be forfeited as to any incomplete portion of such works or structure, to the extent that the same is not complete as the date of the forfeiture."

Thus it will not be until 1927 at the earliest, that it can be determined whether the city of Los Angeles will receive title to the land on which it has filed, and this may be extended in the discretion of the Secretary of the Interior. In other words, the city has the privilege of filing a map covering a power site or location or the land surrounding such power site or location without any real intention of using it, but merely for the purpose of acting the "dog in manger" and throttling power development by its competitors. Regardless of the intentions of the city, it can nevertheless hold the land filed upon until December, 1927.

The purpose of the proposed enactment is as vicious as it is apparent.

A GROSS DISCRIMINATION AGAINST POWER COMPANIES.

There can be no doubt that this bill is framed for the city's electrical development. This was brought out in the Public Lands Committee hearing, where it was made perfectly plain that the city was not interested in securing the use of water except for power purposes. (See id., p. 88.)

"Mr. KETTNER. They only want the water, and Los Angeles wants the power.

"Mr. MATHEWS. This would exclude us the power; that is the only thing we are interested in on the creeks mentioned by Mr. Dixon, of which I think the city has application pending only in Rock Creek.

"Mr. KETTNER. Can we not word it so as to give these people the water, to exclude the water and give Los Angeles the power?"

But as regards power purposes the city is intent not only on developing its own plants but of stifling all other development by competing private corporations.

This purpose resulted in writing in the bill a gross inequality between irrigation and power rights.

Section 3 provides (page 5, lines 10–17):

"The lands affected hereby shall be subject to application for homesteads, for rights of way for canals, ditches, or reservoirs for the conveyance, delivery or storage of water for irrigation if same be filed in the proper United States land office prior to the filing of maps by the city of Los Angeles showing the boundaries, location, and extent of the rights of way sought by said city."

This means that the lands are not necessarily segregated or to be withdrawn for the use of the city against homestead entries and applications for rights of way for irrigation.

There is no provision of this kind relating to power projects however, except with reference to such as were begun prior to June 30, 1906, in the Owens River gorge. This has reference to the Mono Power Co. belonging to Mr. Edson Adams and nothing else, and was placed in the bill at Mr. Adams's request (id. pp. 76–81). But this equality with the city is granted to Mr. Adams for six months only.

All other hydroelectric development is discriminated against in favor of the city of Los Angeles.

It is remarkable to say the least, that the city is so willing to have irrigation applications placed on an equal footing with their own, that is whoever files on a right of way for irrigation first is entitled thereto, but no one can file on a right of way for electric line except the city until December, 1922.

The irrigation interests of Inyo County were respresented at the hearing by Messrs. George Watterson and Galen J. Dixon and the Mono power development on the gorge was represented by Mr. Adams. When these gentlemen showed up the true nature of the public land grab the city's representatives

were forced to yield. But the other power interests not being represented were not protected.

The following appears at pages 94 and 95:

"Mr. MATHEWS. May I state the attitude of the city, with a view to having you understand our situation and with a view of having you understand, possibly, the general purpose of the measure. As I say, the city is perfectly willing that you put in the bill, on that point, an express provision to meet the difficulty that these folks (Mr. Watterson and Mr. Dixon) say the valley has experienced in the past under rulings of the department to the effect that the act of 1906 authorized the blanketing of the whole region there; such provision, so to be inserted in this bill, to provide expressly that the act shall not be deemed or construed to make or authorize the withdrawal of any lands, for the purposes of the projects of the city as against any application for rights of way for ditches, reservoirs, or other works for irrigation or domestic water supply.

"Mr. ELSTON. But not for power."

"Mr. ELSTON. The city evidently does not want to be tied down to any definite right of way, but wants a general right to designate reservoir sites and rights of way that may be useful to projects of which it has not yet exactly determined the limitations. Now, that is one thing; that gives them the affirmative right. If you put in, in addition to that, that this right as herein conferred, which is a general roving right, shall not impair the right of anyone else to make applications for rights of way or reservoir sites, that would settle the whole thing.

"Mr. RAKER. I have asked Mr. Mathews if he is willing to put in the bill a proviso in substance that the Secretary of the Interior, or the Secretary of Agriculture shall not withdraw any of this land that the city may proceed to get its right of way by application.

"Mr. MATHEWS. That is for every purpose—for any purpose?

"Mr. RAKER. Yes.

"Mr. MATHEWS. There is my difficulty. I say you can put it in so far as any irrigation rights or water rights are concerned, that there shall be no withdrawal, and leave it to them. The city, not wanting any additional legislation, or rights in regard to water for its aqueduct, is willing for that provision to go in for protecting the irrigation and water interests of that valley against this legislation. As to power, we have no difficulty with Mr. Adams, but there are other power companies interested in that country with which we have had difficulty. We have had to fight our way on every stream where we have sought to introduce our power projects. And in our financing, as I stated yesterday, of our power developments, we have to go to the people and agitate and get a two-thirds vote to provide the money we require. Persons acting in the interest of one of the companies that operate in that country make it a business to come into Los Angeles politics, and to agitate the people against our power projects, so that if we have a project in Owens Valley looking to development of power on any of those streams, including the building of dams and reservoirs, and the building of power lines to carry our power down to Los Angeles, we really have to reckon with any power company, because we have to go to the people and they can go to the people and we have to argue the things out with the people before we can get the money to build our projects. Now, if this bill results in a law which does not protect us as regards the interference of power companies——

"Mr. ELSTON. By excluding the applications of others until you have fixed your rights?

"Mr. MATHEWS. Yes."

This discrimination was allowed on the pretext raised by the city that the city was at the mercy of the power companies, but this is ludicrous, as shown by the quick retort of Representative Elston (id., p. 95–96):

"Mr. MATHEWS. Then, we are at the mercy of the adverse power companies.

"Mr. ELSTON. Why haven't they come in? They have had a free hand to come in and file applications that would block you, and why is it you fear to give them the same opening now, They have had this right up to this moment and will have it for the next few weeks before this act goes into effect. Why is it you want to have this thing airtight and bombproof for your priorities and exclude others from making applications, when the sky has been the limit for them up to this date and will remain so up to the time the act passes? What is there which makes it such a tremendous menace two weeks hence, when it has not alarmed you up to date?

"Mr. MATHEWS. For instance, suppose we say to the people of Los Angeles that we want to build a power project on Rock Creek, and we can not build it unless they give us the money by a two-thirds vote. That power project includes three power sites, three power plants, and rights of way from there down for transmission. We give to the world our project. Now, if under this act we could have an option on the rights of way for the necessary power projects, then we could go to the people and fight it out, and if they gave us the money for this project, then we should have the necessary rights of way for our project, and we can spend the money on it and carry it out. But, suppose before we can get our option and initiate our entries, we have to go to the people to get the money; while we are getting the people in mood of voting us the money the power people will gobble up the rights of way we require, and our project is either defeated or seriously hindered.

"Mr. ELSTON. You won't go to the people until you have made your applications and protected your rights to the extent that you have a definite scheme to lay before them?

"Mr. MATHEWS. We can not take up a project; we can not tell the Government of the United States that we need rights of way; that we, for instance, have decided to build this project on Rock Creek or some other creek, if we still have to go to the people, and the people may turn us down and nullify our efforts—veto such project.

"Mr. ELSTON. I see the whole thing now. Of course, your word 'option' gives the kernel of the whole thing. That is, after the act goes into effect you want to bar everyone from these lands until you have designated your projects. If that is your plan, then it will exclude Mr. Adams from getting anything for his project until you determine what you want to do."

THE BILL IS UNNECESSARY LEGISLATION.

The city of Los Angeles does not require the protection offered by this bill against any power corporation. If the Southern Sierras Power Co. or any other company were seeking any advantages over the city, such advantage could be obtained by making an application for this land at the present time or any time pending the consideration of this bill by Congress. There is no menace to the city's power development which needs to be guarded against. The bill is unnecessary legislation because the city now has the right to acquire, under the existing acts of Congress, all necessary rights of way and powerhouse sites to be used by it in its power development.

The only purpose of the bill is to handicap the city's power competitors, and even if the intent of the city in this regard is entirely bona fide, the bill nevertheless confers upon the city the power to do great injury; thus it may file maps upon property which the Southern Sierras Power Co. is known to need, and thus hold this part of the public domain from use until December, 1927, and as stated above, whether it files any maps or not, the land will automatically be withdrawn from entry until December, 1922.

GRAVE INJUSTICE UNDER THE ACT OF 1906.

No stretch of the imagination is necessary to foresee the wrongs that will result from the enactment of this bill. Its effect will be identical with that of the act of 1906, and the experience of the Silver Lake Power & Irrigation Co., an affiliated company of the Southern Sierras Power Co., offers abundant warning as to the confiscatory nature of litigation like that under discussion.

The Silver Lake Power & Irrigation Co. entered upon a portion of the Owens River and started to develop irrigation and power projects there, years before the city of Los Angeles ever considered acquiring this land. The company spent over $300,000 in development work, but when the act of 1906 was passed all of this land was taken from it and given to the city of Los Angeles and this large investment wiped out. The facts are sufficiently stated in the case of Silver Lake Power & Irrigation Co. *v.* City of Los Angeles decided by the Supreme Court of California, and reported in 176 California, page 96.

For the purpose of showing the unjust effect of the act of 1906, I will set forth in part the opinion of the court in that case. The company is referred to as respondent and plaintiff and the city as defendant and appellant. The court said:

"HENSHAW, J. Respondent's predecessors in interest first conceived the plan of utilizing the waters of Owens River and of Rock Creek, one of its tributaries,

for irrigation and for the development of hydroelectric energy. They made locations upon the river and creek for these purposes. They began their work under these locations and they prosecuted this work until it was interrupted and suspended by withdrawal orders of the Government of the United States. Under the compulsion of these withdrawal orders the predecessors in interest of respondent ceased work. These withdrawal orders were temporary in character and made in conformity with the law in contemplation that the United States Government might itself impound these waters and devote them to purposes of irrigation for the benefit of the valley lands lying under them. This contemplated reclamation scheme of the Federal Government was abandoned. Before the formal order of abandonment was actually made it became apparent that the Government would not proceed with its plan, and respondent's predecessors in interest resumed work. The work which they did before the withdrawal of these lands by the Government was performed at least two years before the city of Los Angeles ever contemplated using the waters of Owens River or its tributary, Rock Creek, for any purposes whatsoever. During the period of time when the lands lay under the orders of withdrawal Congress passed a certain act, giving the city of Los Angeles, upon conditions, a preferential right to purchase some of the withdrawn lands.

"The order of withdawal to which reference has been made, were, first, the order of July 24 and 27, 1903, under which all the lands on which the notices of appropriation by respondent's predecessors in interest had been posted were temporarily withdrawn, together with large tracts of land for use as a reservoir site in connection with the contemplated Government project. On August 24 and 25, 1903, all the lands upon which it was proposed by respondent's predecessors in interest to put the water for agricultural purposes were temporarily withdrawn from all forms of entry except homestead, on January 1, 1905, all the lands in the Owens River Gorge, which lands lie below the proposed reservoir site, were likewise withdrawn for use in connection with the Government project. These orders of withdrawal were formally vacated on July 12, 1907.

"Before June 30, 1906, but long after the initiation by posting and recording of the rights of plaintiff's predecessors in interest, and long after their first work under those rights had actually been prosecuted, the city of Los Angeles conceived the idea of devoting to its own uses for municipal purposes the waters of Owens River. On the last-mentioned date, and during the period of the operation of the orders of withdrawal above referred to, Congress passed an act (act June 30, 1906, c. 3926; 34 Stats. L., p. 801), granted to the city of Los Angeles necessary rights of way over the public lands in certain named counties 'for the purpose of constructing, operating, and maintaining canals,' etc.; in short, for all legitimate purposes in connection with the proposed conduct of the water of Owens River to the city of Los Angeles, and for the additional purpose of maintaining power and electric plants. This grant was to take effect 'whenever said city shall have filed, as hereinafter provided, and the same shall have been approved by the Secretary of the Interior, a map or maps showing the boundaries, locations and extent of said proposed rights of way.' (Sec. 1.) It was required that the city should file such maps within one year after the passage of the act, and should do no work until the maps had been filed and approved. The rights of way thus tendered by grant were declared not to be effective 'over any land upon which homestead, mining or other existing valid claims had been filed or made until the city of Los Angeles shall have acquired title thereto and made just compensation therefor.' Still further, and with particularity, it was declared that the act should not 'affect the adjudication of any pending applications for rights of way by the owner or owners of existing water rights, and that no private right, title, interest or claim of any person, persons, or corporation in or to any of the lands traversed by or embraced in said right of way shall be interfered with or abridged.' (Sec. 3.) Also the act declared: 'That in the event that the Secretary of the Interior shall abandon the project known as the Owens River project for the irrigation of lands in Inyo County, California, under the act of June seventeenth, nineteen hundred and two, the city of Los Angeles, in said State, is to pay to the Secretary of the Interior, for the account of the reclamation fund established by said act, the amount expended for preliminary surveys, examinations, and river measurements, not exceeding fourteen thousand dollars, and in consideration of said payment the said city of Los Angeles is to have the benefit of the by said act, the amount expended for preliminary surveys, examinations, and river measurements, and the preference right to acquire at any time within

three years from the approval of this act any lands now reserved by the United States under the terms of said reclamation act in connection with said project, necessary for storage or right of way purposes, upon filing with the register and receiver of the land office in the land district where any such lands sought to be acquired are situated a map showing the lands desired to be acquired, and upon the approval of said map or maps by the Secretary of the Interior and upon the payment of one dollar and twenty-five cents per acre to the receiver of said land office title to said land so reserved and filed on shall vest in said city of Los Angeles.' (Sec. 4.)

"It was the language of this act, with other circumstances not necessary to particularize, which conveyed the knowledge that the Government would abandon its proposed reclamation project. Thereupon respondent's predecessors in interest in June, 1906, resumed work under their notices and continued this work (interrupted only by the snows of winter) until shortly after the commencement of this action on July 15, 1907. At that time there was in the codes of this State a section (Civ Code, sec. 1416) providing, in effect, that where litigation becomes necessary under such enterprises as this to acquire land or rights, "then the party so appropriating, or his assigns, shall have 60 days after the determination of legal proceedings by final judgment in which to commence to excavate or construct the works in which he intends to divert the water." Respondent and its representatives ceased work under the guaranty of protection extended by this law. Its provisions in this regard, however, were repealed, at least by implication, by section 4 of the water-power act of April 8, 1911 (Stats., 1911, p. 813). Following the passage of this act, on or about August 1, 1911, respondent resumed work, and continued this work until the date of the trial of this action. This latter work was in part actual construction work and in part was surveying.

"In the action which it brought, this respondent set up its asserted rights to the waters of these streams for the purpose of irrigation as well as for the purpose of developing hydroelectric energy. In this another corporation was interested. There resulted a tripartite agreement between the city and respondent and the third corporation, under which the asserted right to the use of the water for purposes of irrigation was abandoned and those rights conveyed to the city of Los Angeles, leaving in issue the question whose was the right to use these waters for the generation of electricity. With the litigation thus restricted, trial was had before a jury, to which 12 special questions were submitted. One and all the jury's answers favored this plaintiff's contentions. The court adopted them and incorporated them into the findings which it made. Upon these findings and the legal conclusions drawn therefrom it gave judgment for plaintiff, and the defendant has appealed from that judgment and from the order denying its motion for a new trial.

"This statement, incomplete in itself, is designed only as an aid to an understanding of the single question necessary to be considered on this appeal. That question may be thus stated: What effect upon the original appropriators' rights was worked by the executive orders of withdrawal and the act of Congress operating with the laws of this State? * * *

"There can be no argument so sharp as to whittle down the obvious and controlling meaning of the language of these decisions which we have quoted. That language imports this, and nothing but this, that until the completion of the work no title, legal or equitable, vests in the appropriator; no right vests which the Government of the United States is compelled to recognize. The property rights which do accrue are such as to protect the appropriator from the acts of all persons saving the paramount authority. So far as the United States itself is concerned, it is under no justiciable duty in law or equity to such an appropriator until his work shall have been completed.

"Before completion, what may the United States do? It may do as in the case of oil lands it has done, by withdrawals arrest all work before discovery, without compensation to the locator for his expenditures. (United States *v.* Mid West Oil Co., 236 U. S. 459, (59 L. Ed. 673, 35 Sup. Ct. Rep. 309).) Congress, it is to be remembered, under the Constitution of the United States, has the sole power of disposition and control of the public lands. (U. S. Const., Art. IV, sec. 3, subd. 2.) In contemplation of this power, the respondent's arguments that the orders of withdrawal in this case were temporary orders, that they operated only to suspend and not to destroy the rights of the original locators, and that those rights were revived in all their fullness upon the formal vacation of the orders of withdrawal loses all force in view of the congressional exercise of the power to which we have adverted.

Congress, had it chosen to do so, without any order of withdrawal having been made by the executive department, could have granted the lands and rights to the city of Los Angeles, as in fact it did, during the existence of the orders of withdrawal. It may be conceded that to have done so would have been a harsh exercise of the power, but this concession can have no effect upon the legality of its exercise. So here the legal situation presented is, and this statement of it is made in the light most favorable to respondent, that before respondent's predecessors in interest had acquired any vested right in the lands against the United States, Congress, in the exercise of its supreme authority, made conveyance to the city of Los Angeles of the lands and of the waters in connection therewith for all the purposes for which they were designed to be used by the original appropriators. It must be held that these appropriators and all others upon the public domain act with the knowledge and under the peril to their ventures that this may be done. The property rights which they acquire while working and before those rights have become vested as against the Government of the United States are held, as it were, upon condition, in that they are liable to extinguishment at any time by an act of Congress directed to that end.

"This conclusion, without regard to any other questions presented, is determinative of this case, and the judgment and order appealed from are therefore reversed."

AN EXAMPLE OF EXTORTION BY THE CITY OF LOS ANGELES UNDER THE ACT OF 1906.

If the city is not to be blamed for taking advantage of the rights conferred upon it by Congress, it certainly is to be blamed for the improper use of the power so conferred; and if it be said that the city of Los Angeles is not intending to take advantage of the broad powers over the public domain dedicated to it by the proposed bill, we can only reply that reasoning from past experiences, they do intend to do that very thing.

In the years 1911–1912 when the Southern Sierras Power Co. was extending its power line in a southerly direction from Bishop Creek to the city of San Bernandino, it became necessary to carry its power lines across certain lands belonging to the city of Los Angeles; these were lands conferred upon the city by the act of 1906. Upon being asked by the representatives of the Southern Sierras Power Co. for the right to cross said lands, the representatives of the city, in an informal way, indicated that this right would be granted for a nominal consideration. It appears, however, that upon mature deliberation the city realized the advantage which it had over the Southern Sierras Power Co. and sought to press the advantage to the extreme limit.

It appears that the Silver Lake Power and Irrigation Co. claimed certain irrigation rights in that part of the Owens River known as the gorge and in the northern part of Inyo County, and had brought three suits against the city of Los Angeles to protect those rights. The Silver Lake Power and Irrigation Co. was known to the representatives of the city of Los Angeles to be under the same management as the Southern Sierras Power Co., and the city shrewdly saw a way to control the Silver Lake Co. by practicing extortion against the Southern Sierras Power Co. This it did by refusing absolutely to grant to the Southern Sierras Power Co. any rights of way across the above-mentioned lands belonging to the city, except upon the condition that the Southern Sierras Power Co. procure the dismissal of two of the irrigation suits then pending by the Silver Lake Co. against the city, and procure the revision of the issues in the third suit so as to confine such issues to power as distinguished from irrigation rights.

At this time, in the summer of 1912, the Southern Sierras Power Co. had extended its power lines southerly from Bishop Creek to the point where it intended crossing the city's lands, and northerly from San Bernardino to the city's lands and there the lines stood with a wide gap in them which could be closed only by the consent of the city of Los Angeles. Under these circumstances there was nothing for the Southern Sierras Power Co. to do but acquiesce in the demands of the city of Los Angeles whatever they might be.

The unreasonableness of the action of the city of Los Angeles is discerned from a letter written to the Board of Public Service Commission on May 15, 1912, by Mr. Chas. F. Potter, then general counsel for the Southern Sierras Power Co., which, in part, reads as follows:

"As I explained to you at our conference on Monday of this week, the matter of this right of way was taken up with the representatives of the city

several times in the fall of the year 1911, and we were assured that there would be no difficulty in securing this right of way, and for a nominal consideration.

"The transmission line of the Southern Sierras Power Co. extends from Bishop Creek through the counties of Inyo, Kern, San Bernardino, and Riverside, and the electric energy to be supplied by the company will furnish the means of developing many thousand acres of desert lands by pumping, and will supply a market at the present time unsupplied, and will be of great benefit in the development of southern California. The company is already supplying electric energy to the inhabitants of San Bernardino and certain parts of San Bernardino County, and to the inhabitants of Corona and certain parts of Riverside County. The company is constructing a large steam plant at San Bernardino and has made a large number of contracts with electric power consumers for use of electric energy during the present irrigation season, and many persons, living and owning lands along this line, are depending upon this power for use during the coming summer.

"Whatever benefits Southern California is either a direct or indirect benefit to the city of Los Angeles, and we must realize that the committee of Riverside, San Bernardino, Kern, and Inyo are entitled to favorable and liberal consideration in connection with any matter which tends to develop and benefit the country.

"The transmission line of the Southern Sierras Power Co. is nearly 250 miles long. Rights of way have been obtained or contracts arranged for same, covering practically this entire distance, except across the lands belonging to the city of Los Angeles. Our engineers have met with the engineers of the aqueduct and have equalized and settled all differences in matter of line survey so as to avoid conflicts, and every possible concession has been made by our company to meet the wishes and views of the aqueduct engineers. Our negotiations with Mr. Mulholland, Mr. Mathews, Mr. Robinson, and Mr. Scattergood, up to the present time, have been extremely courteous and we have anticipated no trouble in securing your final approval to the construction of our line across the aqueduct lands.

"The location of the high steel towers, approximately 660 feet apart, can in no manner damage the lands of the city, and the land is left for the city's proper use, subject only to our right to construct and maintain our towers and lines. In our conference on Monday, I explained to you quite fully that fact that the Silver Lake Power and Irrigation Co. was a separate corporation and that the application of The Southern Sierras Power Co. for this right of way should not be complicated or held up because of any pending litigation between the Silver Lake Co. and the city not involving any of the lands across which the right of way is sought. I explained also quite fully the work which the Silver Lake Co. had done in the gorge below the site of the proposed Long Valley dam and that said company's water rights were older and superior to those of the city and that the work of developing power had been commenced before the city made its power locations. In other words, it is a fact that the present owners of a majority of shares of the Silver Lake Co. purchased same without any knowledge or intimation that the city contemplated power development three hundred or more miles away from the city in connection with the gorge below the Long Valley Reservoir site, and the Silver Lake Co. has expended its money in good faith for power development at that locality.

"The records at Washington in connection with act of 1906 authorizing sale of lands to the city of Los Angeles show that no power development was contemplated, except in connection with the use of the water between the intake of the aqueduct and the city, or as power might be incidentally developed for use in construction work along the line of the aqueduct.

"I have examined the reports of the board of water commissioners of the city of Los Angeles, the reports of the department of public works relating to the Los Angeles Aqueduct, including reports of the engineers connected with that work, and the reports of the bureau of the Los Angeles Aqueduct, and of the board of public service commissioners since the year 1906, and fail to find any reference to proposed power development by the city of Los Angeles in connection with the Long Valley Reservoir or with the channel lands below said reservoir site.

"The fact that the present owners of the majority of stock of the Silver Lake Co. were investigating and contemplating development of power on Owens River below the Long Valley reservoir site has been known to representatives of the city connected with the aqueduct department since the year 1910, and it was

not until last fall after my clients had purchased the controlling interest of the Silver Lake Co., and after they had in good faith commenced work for the diversion of their water rights for the generation of power, that my attention, or the attention of my clients, was called to the fact that the city of Los Angeles had any idea of developing power in that locality. Our attention was first called to this by power location made in August, 1911, by representatives of the city.

"It is also a fact that at the time my clients purchased a controlling interest in the Silver Lake Co. the Commissioner of the General Land Office had decided that the channel lands referred to were not needed by the city, either for storage or right of way purposes in connection with the Los Angeles aqueduct project.

"It is fair, therefore, to assume that the investment made in the Silver Lake Co. by my clients was made in good faith, and it has been their desire at all times to act in the utmost harmony with the city and to give to the city every possible help in the use of the waters of Owens River for municipal purposes and for every other purpose to which the city sees fit to use same, except for the immediate development of power at points where the Silver Lake Co. owns its valuable water locations. Considering the facts, it is a matter of surprise to us that at this late day the suggestion should be made by your honorable board the before the necessary right of way will be sold to the Southern Sierras Power Co. that company must compel the Silver Lake Co. to surrender what it believes to be valuable property rights on Owens River and rights on which it has expended, up to the present time, quite a large sum of money to maintain. I have taken the position—and so stated to your honorable board—that the claims of the Silver Lake Co. and their relation to the rights of the city on Owens River should have no bearing upon the question of selling a right of way for power transmission line to the Southern Sierras Power Co., and I have explained to your honorable board that it is the wish and desire of the gentlemen now in control of the Silver Lake Co. to aid and assist the city of Los Angeles in building the Long Valley Reservoir when it becomes necessary to build same in order to store surplus waters for the city's use. I have explained also, that in the meantime, it is the desire of the Silver Lake Co. to develop its water rights for power purposes—and power purposes only—and to use the power thus developed for the building up of certain portions of Inyo and Kern Counties, and the counties of Riverside and San Bernardino. The water which is now going to waste can be utilitzed to great advantage, and being used for power purposes purifies rather than contaminates the water and makes it better, if anything, for the city's use.

"While the water rights owned by the Silver Lake Co. are valuable for irrigation and other purposes, as well as for power, I have advised the company that it would be best to make arrangements with the city of Los Angeles and allow the city to make use of all the water rights of the company for all purposes other than the development of electric power.

"In taking up these matters to-day with Messers. Matthews, Robinson, and Scattergood, while your board was in session attending to other public matters, Mr. Matthews indicated that before your honorable board would agree to sell to the Southern Sierras Power Co. the right of way which it is seeking that company must cause the Silver Lake Co. to dismiss its two suits now pending against the city having reference to certain water rights of way along the line of the Aqueduct, and also give up such claims as it may have to the development of its water rights for power purposes along the channel below the Long Valley Reservoir site. While looking upon a proposal of this kind as unfair and not such a dealing between us as the conditions warrant, I stated that I was in a position to make the following proposition to your board:

"First. The Southern Sierras Power Co. will pay to the city of Los Angeles a just and reasonable compensation for the right of way in the nature of an easement required by it.

"Second. Will secure the dismissal of the two suits now pending against the city of Los Angeles by the Silver Lake Power and Irrigation Co. having reference to water rights and rights of way along the line of the Aqueduct.

"Third. Will revise the issues in the third suit now pending between the Silver Lake Power and Irrigation Co. and the city of Los Angeles, so as to eliminate any controversy over lands or title to lands inside the Long Valley Reservoir site, reserving to the Silver Lake Co., however, the rights to have determined by the courts the titles to its water locations and its right to develop same for power purposes at points below the Long Valley Reservoir site.

"Fourth. The Silver Lake Co. to surrender all claims it has to the waters of Owens River, except for use in the development of power, thereby giving up to the city all its water rights under its prior locations, except power rights.

"Fifth. The Southern Sierras Power Co. to make all changes in its line heretofore agreed to between the engineers of the company and the city, so that the transmission line, as constructed, will be located at points acceptable and satisfactory to both parties."

The statement in Mr. Potter's letter above quoted to the effect that in the original aqueduct plans of the city at the time the act of 1906 was passed, there was under contemplation no power development whatever by the city in the Owens River gorge, is amply borne out by the protest and brief filed by the city of Los Angeles with the Department of the Interior in the month of November, 1906. This protest was filed against the application of Mono Power Co. for the right of way over certain public lands bordering the Owens River gorge. The protest is entitled "City of Los Angeles, protestant, *v.* Mono Power Co., applicant," numbered 0364, and signed by Owen McAteer, mayor, and William Mulholland, superintendent of waterworks. The Mono Power Co. above mentioned is the same Mono Power Co., owned by Mr. Edson Adams, which was mentioned in the proceedings before the Public Lands Committee of the House of Representatives, the testimony of which we have quoted above. In the protest of the city of Los Angeles, the only objection raised to the power development of Mono Power Co. was the fact that the city contemplates the construction of a reservoir in Long Valley above Owens River gorge for the purpose of storing water to be used for municipal purposes during the dry season when the seasonal flow of Owens River was insufficient for the city's needs. It was contended in this protest that the operation of a power plant in the gorge would necessitate the turning down of a constant flow of water for the power plant, which would make it impossible for the city to store its water for municipal use.

If the city now contemplates power development in the gorge, which is apparent from the testimony of Mr. Mathews above quoted, it constitutes a complete change of front on the part of the city, or else it shows a deception practiced in numerous former applications and protests before the Department of the Interior. If any power development on the gorge had been contemplated at the time the Mono Power Co. applied for its rights, then the protest filed by the city is entirely fictitious, for the city's power plant could use identically the same water at the same time that the Mono Power Co. plant used it. Taken altogether, the conduct of the city in this whole Owens River matter has been so high-handed and deceptive as to warrant very little consideration at the hands of Congress.

THE SOUTHERN SIERRAS POWER CO. AND ASSOCIATED COMPANIES ARE PUBLIC-SERVICE CORPORATIONS SERVING A VAST TERRITORY.

The Nevada-California Power Co. and the Holton Power Co. are associated with the Southern Sierras Power Co. in the production and sale of electric current, and all are equally affected by the proposed legislation. The generating plants of the Southern Sierras Power Co. and the Nevada-California Power Co. are located on Bishop Creek in Inyo County and in the neighborhood of Mono Lake in Mono County. The Holton Power Co. is confined to Imperial County but is almost wholly dependent upon the current generated by water power in the plants of the other two companies. The territory served by these companies is vast in extent, covering a large part of central and southern California as well as the mining district of Nevada. All or virtually all of the power used in the metalliferous mines of Nevada is that generated by the Nevada-California Power Co. in its plants on Bishop Creek and near Mono Lake. The Southern Sierras Power Co., by means of high-tension transmission lines, conducts its electric energy for lighting and power purposes over the longest transmission line in the world, through the counties of Mono, Inyo, Kern, San Bernardino, Riverside, and Imperial to the Mexican boundary. The transmission line just mentioned in the counties of Inyo, Kern, and San Bernardino runs over a desert country, which is, however, rich in mineral products, such as salt and potash, and some silver has recently been discovered. It is in this territory that the proposed bill would withdraw from entry all the public domain, leaving the Southern Sierras Power Co. absolutely impotent to extend its lines, change the course of its lines, or construct distributing lines to any industries,

salt works, or mines which were in need of power service. This company would be unable to even set a pole in this territory without the permission of the city of Los Angeles, which, in view of past experience, would undoubtedly not be granted; and this, for the perfectly apparent reason that the city of Los Angeles itself, although ostensibly building its power plants for lighting the city of Los Angeles, is, instead of using its power for that purpose, competing with the Southern Sierras Power Co. in the service to the various industries in Inyo, Kern, and San Bernardino Counties.

From the city of San Bernardino on south, the lines of the Southern Sierras Power Co. and the Holton Power Co. serve a wealthy agricultural district in San Bernardino, Riverside, and Imperial Counties, including the section devoted to orange and other citrus fruit culture and the far-famed Coachella and Imperial Valleys. Each of these two valley's is proven to be a veritable cornucopia of agricultural products, and both of them are entirely dependent upon the Southern Sierras Power Co. and the Holton Power Co. for their electric current for lighting and power purposes. The power feature is indispensable to these communities for the purpose of pumping water for irrigation and also for the manufacture of ice for the icing of refrigerated fruits, melons, and vegetables.

Along the lines of the Southern Sierras Power Co. and the Holton Power Co. are various towns and cities, not to mention numerous smaller agricultural settlements. Among such towns and cities are San Bernardino, Redlands, Colton, Rialto, Victorville, Inyokern, Barstow, Randsburg, Keeler, Lone Pine, Bishop, Riverside, Highgrove, Corona, Wineville, Perris, Elsinore, San Jacinto, Hemet, Beaumont, Banning, Palm Springs, Indio, Mecca, Coachella, Niland, Brawley, El Centro, Calexico, Imperial, Dixieland, Holtville, Calipatria, Yuma, Arizona, and Mexicali, Old Mexico.

Not only are the above-named towns served with light and power by these companies, but the intervening agricultural territories are also vastly benefited by power for irrigation works.

THESE COMPANIES AND THE TERRITORY SERVED BY THEM ARE BOTH GROWING AND DEVELOPING.

A consideration of prime importance, which ought to appear to Congress before passing discriminatory legislation against these companies, is that neither the companies nor the territory served by them have reached anything like the development that is possible. The placing of electric power in the salt and potash districts of California enabled various concerns to turn out large quantities of potash during the war period when the German production of this commodity was cut off. It may be said without exaggeration that the development of Coachella and Imperial Valley's is due very largely to the introduction of hydroelectric power into these territories, and the growth in population and in irrigated acreage in Riverside and Imperial Counties is increasing as fast as it is possible to increase the supply of electric power and irrigation water.

The growth of the business done by the Southern Sierras Power Co. and its associated companies is vividly indicated by the output of electric power since the commencement of business in 1906. Since that year these companies have developed at such a prodigious rate that each year has witnessed an increase of from 10 to 50 per cent in the output of kilowatt hours of electric current. The following table shows in round figures the kilowatt hours of electric current in each year.

	Kilowatt hours.
1906	5,500,000
1907	14,800,000
1908	32,400,000
1909	46,200,000
1910	52,100,000
1911	55,600,000
1912	66,000,000
1913	81,800,000
1914	108,800,000
1915	114,100,000
1916	131,000,000
1917	148,200,000
1918	161,300,000
1919 (estimated)	200,000,000

Something in excess of $12,000,000 of capital have been invested in these companies for hydroelectric plants, transmission lines, and property rights.

Even if the vast amount of capital embraced in these enterprises does not appeal to Congress, it certainly does seem that the rights of the public served by these companies should receive most earnest consideration. There may be a disposition to consider the only ones interested in these companies to be the stockholders and bondholders thereof, and while this might be true of a purely private corporation it is in no sense true of public service corporations similar to these companies. The Southern Sierras Power Co. and the Holton Power Co., so far as rates and the sale of stocks and bonds are concerned, are entirely under the control of the railroad commission of the State of California. The function of the railroad commission is to guarantee to the people that the rates charged by these companies are fair and reasonable. If they are too high, the railroad commission will reduce them. If they are too low, the railroad commission will increase them, and the end to be gained by such regulation is to guarantee to the companies a fair and only a fair return on the money invested over and above operating expenses and interest and depreciation charges. Whatever legislation is enacted detrimental to the property and interest of these companies will react against the public served thereby. If Congress, by the enactment of the proposed bill, prevents the growth of the Southern Sierras Power Co., the effect of that will be to retard the growth and development of the Imperial Valley two or three hundred miles away. This is not a mere question of balancing the interests of the citizens of the Imperial Valley against the citizens of Los Angeles because the enactment of this bill is not necessary, as we have shown above, to the power development of the city of Los Angeles; they having equal show with the citizens of any other territory and an equal show with any public service corporation in the development of their power projects. They are entitled to that, but they are entitled to no more.

The towns and cities of Riverside and Imprial Counties can not each go befor Congress as the city of Los Angeles has done, and obtain immense grants of land for the purpose of constructing power plants, nor, if they were able to do this, could they finance the construction of works sufficient in magnitude to supply themselves with electricity from Bishop Creek and vicinity. The only means that these communities have of supplying themselves with electric energy is through the employment of private capital in enterprises so large as to supply all of the towns in this section of the State. This they have done by the aid of the Southern Sierras Power Co. and the Holton Power Co. The systems of these companies are just as much engaged in the public service as will be the municipal system of Los Angeles. Any distinction or difference or preference or discrimination between the Los Angeles power development and that the towns and cities of Riverside and Imperial Counties is unjustifiable. The fact that Los Angeles is a large community and the other towns are small communities is not a just basis for discrimination. It is not the province of Congress to advance the interest of the great over those of the small.

THE PROPOSED BILL CREATES MONOPOLY OF PUBLIC LAND AND WATER AND IS CONTRARY TO DEMOCRATIC PRINCIPLES AND WESTERN WATER LAW.

In asking for the withdrawal of all of the public lands in the region described in the proposed bill Los Angeles is seeking a monopoly over all this territory, a blanket option which will exclude all others. This is a special privilege which the city has no right to expect, since the public domain should be held and disposed of under general laws, equal in their application to all persons. Granting of special privileges and monopolies is contrary to the principles of our Government and should be frowned upon.

The Southern Sierras Power Co. and associated power companies entered the territory in question about the same time that the city of Los Angeles did. These companies have now developed a highly efficient power system, transforming the stored-up water power of Mono and Inyo Counties into electric energy and conducting it hundreds of miles to distant communities. On the other hand the city of Los Angeles has done very little in hydroelectric development, but now seeks to gain a monopoly or reservation of the lands surrounding this water power so that they will have the same reserved unto themselves without developing it.

The spirit of the West is one of development, and the essence of western law, in particular, is that of beneficial use. The legislatures, the courts, and

the people of the Western States have never tolerated the "dog in the manger" policy. As has often been said, beneficial use is the basis, the measure and the limit of all rights in and to the use of water in the public streams. When the aqueduct of Los Angeles was built the plans provided for the generation of sufficient hydroelectric energy along the line of the aqueduct to supply the city. The aqueduct is now completed, their hydroelectric development is negligible, and we are now blandly informed that the city must go above the aqueduct into the Owens River gorge and Long Valley in Mono County, and there start anew the construction of its electrical system.

It is submitted that the city of Los Angeles is now in possession of sufficient water power along its existing aqueduct to generate all the electric current which it needs. This is tacitly admitted by the city, and it is apparent that they do not intend to develop the Owens River gorge, at least at present. That is why they are asking to have it set aside until 1927, in order that they may hold it for themselves and deprive all others of its use.

The Southern Sierras Power Co. and associated companies are asking no special privileges, but desire for their own sake and for the sake of the people served by them to be unhampered in the continuation of the normal, healthy development which they have experienced in the last 12 years. The water in the natural streams of Inyo and Mono Counties is of little benefit in that locality compared to the benefit of the electric current which it generates when such electric current is transported to the fertile valleys of Imperial and Coachella. Thus these valleys, being themselves entirely arid, are nevertheless irrigated by the use of energy generated in Inyo and Mono Counties, and yet Inyo and Mono Counties left in possession of all the water which they formerly had. This great accomplishment has come about through the operation of no monopoly or special privilege, and none is necessary to these companies or to the city of Los Angeles if there is present the actual, bona fide intent to go ahead with development work, which is very likely not the case with Los Angeles.

It therefore seems perfectly clear that the passage of this bill would be contrary to public interest and not even necessary for the best interests of the city of Los Angeles.

Respectfully submitted.

H. T. Coil, *Attorney.*

EPITOMIZED STATEMENT OF ARGUMENTS AGAINST H. R. 406.

The passage of this bill would be pernicious legislation and contrary to public interest, for the following reasons:

Creates an obnoxious monopoly of public lands.—In contravention of the principles of our Government which require that public lands should be held and disposed of under general laws of equal application to all persons.

Is unnecessary legislation.—Because the city of Los Angeles now has a present right under existing acts of Congress to acquire all necessary rights of way and locations for its contemplated power development in the identical lands embraced by this bill.

Is contrary to the theory of development governing grants of public lands.—Under provisions of this bill the city of Los Angeles could tie up immensely valuable potential hydropower resources of the public domain for a period of eight years without using or developing same in the slightest degree, and in the meanwhile bar any development thereof by others.

Would be repugnant to the fundamental principles of western water law.—Inasmuch as it withdraws public lands for purposes of hydropower development under conditions permitting nonuser of the water rights during a period of many years. Until December, 1922 (over three years), the city of Los Angeles could retain exclusive control over a vast area of public lands containing immensely valuable potential hydropower resources, without doing anything whatever toward applying the domain to a beneficial use. Furthermore, at the end of three years, by merely filing maps of its proposed locations and rights of way, the city of Los Angeles could hold the said rights for an additional period of five years, and for such further time thereafter as the Secretary of the Interior shall, in his discretion, grant. Such conditions contravene the basic law requiring that water rights in public streams be predicated and contingent upon actual applications to a beneficial use.

Unjustly discriminates against other municipalities of southern California.—By granting to the city of Los Angeles an absolute monopoly over all hydro-

power development in the affected area, for a prescribed period of three years and a potential period of eight years and possibly longer, to the exclusion of all development and extension of the facilities of hydroelectric power companies now located and operating within the segregated domain. Congress would directly and seriously discriminate against the smaller cities and towns of southern California which, on account of the great expense, are unable to undertake a hydropower development of their own, and therefore are dependent upon such power companies for service vitally necessary for their growth and development.

Would retard the development and expansion of mining, industrial, and agricultural regions of national importance.—The mining district of southwestern Nevada; the great potash plants at Searles Lake, and cement plants at Victorville and Oro Grande, the extensive orange and citrus districts of Riverside and San Bernardino Counties, and the far-famed agricultural operations in the Coachella and Imperial Valleys are dependent for their electric current for power and lighting purposes upon the Nevada-California Power Co., the Southern Sierras Power Co., and associated companies, all of which would be seriously affected by the proposed legislation, the practical result of which would be to tie up all the public domain available for the extensions of their facilities for serving these vast interests, thereby seriously retarding the growth and development of the nationally important territory served by the said public utility companies.

Grossly discriminate against hydroelectric companies.—By permitting applications for homesteads and rights of way for canals, ditches, and reservoirs for irrigation purposes (if filed prior to filing of maps by city of Los Angeles) but leaving the region barred to similar applications for power purposes. No legitimate reason exists for this discrimination, which is unjust to the public utility companies operating within the area affected and is a detriment to the municipalities and the public at large dependent thereon for service.

The abuse of privileges under act of 1906 forfeits right to additional privileges.—Acts of injustice and oppression committed by the city of Los Angeles against others seeking harmless rights of way over the public lands controlled by the city under act of 1906 discloses the grave danger of granting the extension and renewal of such despotic dominion of public lands as would be possible under the provisions of this bill.

It withdraws public lands for an unnecessary and unreasonable length of time.—Act of 1906, under which the Los Angeles aqueduct was constructed, limited the city to one year within which to file maps of rights of way desired, and two years to amend same, which limitation proved sufficient. Therefore the proposed bill allowing the city of Los Angeles three years within which to file its maps of rights of way is an unnecessary extension of time, especially inasmuch as it relates to a comparatively minor project, and would result in an unreasonable, unjust, and highly detrimental suspension of any development or extension of the facilities of the hydroelectric public utility companies whose plants and transmission lines are located within the segregated area.

Mr. RAKER. Mr. Kettner, before you get through—maybe you explained it fully before I came in; if you did, I will not pursue the subject—have you explained to the committee the cities that are involved, that are dependent upon getting electric energy by virtue of these other public-service corporations?

Mr. KETTNER. I did; yes. I explained that it served most of my district, to wit, San Bernardino County, where we have the cities of San Bernardino and Redlands; Imperial County, with all of the different cities there—in fact, it goes to the end of my district, clear over to Yuma.

Mr. RAKER. Is this a public-service corporation that is furnishing energy to these various cities in southern California?

Mr. KETTNER. Yes; all in my district.

Mr. RAKER. What do you know about the objection or the statement made by the Chairman here the other day in regard to the irrigation of land in Inyokern? Do you know anything about that,

the quantity of land that it is intended to develop water for and irrigate in and about Inyokern?

Mr. KETTNER. No; there are a great many—in the former hearings, you know, that was brought out. There is a great deal of land that was withdrawn by the Government, which I believe now is open, that the settlers are trying to irrigate at the present time.

Mr. RAKER. Well, I understand from your position, Mr. Kettner, that you are not opposed to the city of Los Angeles receiving confirmation of a right of way on the aqueduct as it is now constructed?

Mr. KETTNER. I am not.

Mr. RAKER. And you are also anxious to assist in securing legislation whereby they may have additional reservoir sites, rights of way, canals, canal rights of way, and for pole lines, and all other rights that would go to the development and transmission of electricity, electric energy?

Mr. KETTNER. I am.

Mr. RAKER. But at the same time your position is that while this thing is going on it will not interfere with the city of Los Angeles in the least; that the other gentlemen should be permitted to proceed as fast as they can, where there is no detriment to the rights of the city of Los Angeles?

Mr. KETTNER. I made this statement before you came in, Judge, that I felt certain the committee would protect the present lines and works of the Southern Sierras Power Co., for the reason that they were serving all of my district; and they are giving good service, they are giving it reasonable, and the people are well satisfied. In fact, it developed the eastern portion of my district on the desert—it was the cause of the development. I feel satisfied the committee will protect them. I made that statement before you came in.

Mr. RANDALL. You stated a moment ago, I think, that a large area of that land has been withdrawn from entry.

Mr. KETTNER. It was withdrawn.

Mr. RANDALL. You mean from desert entry and homestead entry?

Mr. KETTNER. It was withdrawn for quite a while. I believe it is open now.

The CHAIRMAN. That is the land that they purchased?

Mr. KETTNER. That was land withdrawn for the city of Los Angeles. I believe that is all open for entry now.

The CHAIRMAN. It was withdrawn for reclamation purposes and the city under the act of 1906 secured it. That is the land you referred to?

Mr. KETTNER. That is the land I referred to. And they agreed at the former hearings to eliminate the Bishop Creek and other projects that were under development at that time.

Mr. RANDALL. I understand they do not accept desert filings on that land now.

Mr. KETTNER. What project are you speaking of?

Mr. RANDALL. Projects where there is no possibility of developing water.

Mr. KETTNER. Perhaps you know, Mr. Edgar.

Mr. EDGAR. A great deal of it had already been entered and subject to final proof, but the department temporarily is not accepting

new filings, simply because some of them had some difficulty in developing their water. But they are getting this other section to cure all that, when they will again be allowed to resume the privilege.

Mr. KETTNER. Well, I don't quite understand you, Mr. Edgar. You mean if the bill is amended so as to permit your water rights it will cure that?

Mr. EDGAR. Yes; we think so.

Mr. KETTNER. Well, Mr. Mathews stated there would be no objection to that.

Mr. EDGAR. The proposition you spoke of, I think, however, was a different matter. That was lands farther up in Inyo County.

Mr. KETTNER. Yes, but we eliminated that a year ago. Mr. Osborne kindly consented to the elimination of that territory a year ago in our former hearings.

The CHAIRMAN. You may resume, Mr. Mathews.

STATEMENT OF MR. W. B. MATHEWS—Resumed.

Mr. RAKER. Mr. Mathews, before you proceed—I started to ask a few questions of you this morning, and the chairman had a matter that he wanted to develop, and if I am not trespassing now, Mr. Chairman, may I proceed to ask the gentleman a question or two?

As you have explained, Mr. Mathews, the aqueduct as finally constructed and now physically upon the ground is not, through its entire length, on the right of way, according to your maps that were filed and accepted?

Mr. MATHEWS. That is true, Judge.

Mr. RAKER. Now if the bill authorized a right of way along the aqueduct 250 feet on each side, it would cure that objection?

Mr. MATHEWS. 125 feet: yes.

Mr. RAKER. 125 feet on each side would cure that particular objection, so far as the aqueduct is concerned?

Mr. MATHEWS. That is true.

Mr. RAKER. Now, would that apply and practically be the same, so far as the electric line system is concerned, along the aqueduct to Los Angeles? I mean not going up into the recesses of the mountains, but confining it to along the aqueduct?

Mr. MATHEWS. I do not know of any lines we built under the act of 1906 on locations different from those which had been approved.

Mr. RAKER. Then the electric line system is not involved?

Mr. MATHEWS. No, sir; not so far as any need of legalizing departures from approved rights of way is concerned.

Mr. RAKER. Under the bill, the act of 1906, up to the present time, outside of now, you have exhausted your time and right to file additional reservoir applications, application for ditches, reservoir sites and canals?

Mr. MATHEWS. That is true, so far as the act of 1906 is concerned.

Mr. RAKER. Now the purpose of this act is to give you the right to file within the designated time in the bill, your plats, maps and specifications, showing particular reservoir sites, particular ditch rights and acqueduct rights, authorizing the appropriation of water therefrom as well as for electric lines for transmission?

Mr. MATHEWS. An the sites for power sites.

Mr. RAKER. Power site houses and so forth.

Mr. MATHEWS. Yes, that is true; accepting that the bill does not provide for the appropriation of water.

Mr. RAKER. Now, without this bill you would not be able to get that?

Mr. MATHEWS. We would not be able to get what we want, and that is a point, Judge, that has not been expressly refered to this time. It was before. All we can get now in the way of rights of way for transmission and for other purposes connected with electric power development, have a revocable feature and are too narrow for our purposes, and are of such an uncertain character that a municipality finds it extremely difficult to finance its prospects because they have got to go to the people and get a two-third vote for bonds and rights of way of a limited or revocable character for a large project requiring bond issues are objectionable to many taxpayers and voters.

Mr. RAKER. In other words, you want to do away with the revocable permit that you now have, so that it will be confirmed by a grant, so that when you get the matter constructed you will know you are there without anyone having the right or power to move you, or shift you, or entirely eliminate you?

Mr. MATHEWS. Yes, sir.

The CHAIRMAN. By the revocable permit do you mean a permit under the present water-power law?

Mr. MATHEWS. No, under the present acts of Congress authorizing revocable permits.

The CHAIRMAN. That is the present water-power law?

Mr. MATHEWS. Yes, sir.

The CHAIRMAN. Not the bill pending, but the present law?

Mr. MATHEWS. The present law.

The CHAIRMAN. You have some of those pending now?

Mr. MATHEWS. Yes, we have. We have gone ahead and spent four or five million dollars in anticipation of this law being passed, because we had to develop power.

Mr. RAKER. In other words, outside of this bill, this proposed legislation, under the law as it now exists relative to rights of way for the various dams, reservoirs, water for irrigation as well as for hydro-elctric energy, you have complied with the present statutes and obtained a revocable permit?

Mr. MATHEWS. Only as to power rights of way.

Mr. RAKER. And you now want to have that confirmed by the provisions in this bill?

Mr. MATHEWS. Yes, sir; we want to resolve those into permanent rights.

Mr. RAKER. In addition to the new rights that you hope to acquire under the bill in the territory designated?

Mr. MATHEWS. That is true.

Mr. RAKER. Now anyone going upon the ground will find the canals constructed—the acqueduct constructed?

Mr. MATHEWS. Yes, sir.

Mr. RAKER. And second, they will find your plats on file, in addition to the work that you have done upon the ground, showing your procedure under your revocable permits?

Mr. MATHEWS. Yes, sir.

Mr. RAKER. So there can be no question as to their knowledge of what you have already done under the revocable permits?

Mr. MATHEWS. No, sir.

Mr. RAKER. The only question is then as to your future development, the future rights that you desire to acquire as named in this bill within the territory under the provisions of the bill?

Mr. MATHEWS. Yes, sir.

Mr. RAKER. That is about the situation, is it?

Mr. MATHEWS. Yes, sir.

Mr. RAKER. Can you see any objections to authorizing—to permitting others within the territory acquiring similar rights, provided they do not interfere with or conflict with or upset those of the city of Los Angeles, or which they desire to acquire within the time designated in this bill?

Mr. MATHEWS. You mean covering the same rights that we have, or other lines?

Mr. RAKER. Other lines.

Mr. MATHEWS. No.

Mr. RAKER. Even where they might cross your right of way?

Mr. MATHEWS. That is true; provided, of course, that our works are safeguarded. There is a point I wish to bring up——

The CHAIRMAN (interposing). You are answering the judge's last question, are you?

Mr. MATHEWS. Yes. Since hearing that a situation might arise where it would be difficult for the Inyo-Kern people to carry out their plan if they could not get across our acqueduct or our right of way for any purpose——

Mr. RAKER. Right there, Mr. Mathews, you have got right to where I want to put a direct question and get your explanation.

If it became necessary to cross the right of way where your power lines are, that, I understand, can be done with but little difficulty in going over or under, by making the proper insulation, and so forth? That can be done, can it not, without any detriment whatever?

Mr. MATHEWS. Yes.

Mr. BAKER. Now, second, as regards the acqueduct, if a separate and independent association—farmers or what not—desires to divert water and build a canal or ditch that should parallel for a short distance, or should cross the right of way at right angles, or nearly so, so as to cross the acqueduct, it could be done by putting it under or over the acqueduct, whereby the acqueduct would be maintained in its stability as it is now, and there could be no objection to that, could there?

Mr. MATHEWS. No, if I understand what you mean by running along parallel with the acqueduct. As to the general matter of crossing, if they want to get across us we have no objection to your putting in the bill something like this—if I understand what you want there—that it should be competent for the Secretary of the Interior, or the head of the department where the lands affected are controlled, to authorize a party having a right of way from the Government to build across our right of way under such regulations as the Secretary may prescribe, where the Secretary finds that the work may be maintained without detriment to the construction, maintenance, and operation of our work.

Mr. RAKER. That is just the situation I want to develop.

Mr. MATHEWS. We are willing that Mr. Finney, or anybody else, shall sit down here and work it out so that it will be in the bill that you can get across us.

Mr. RAKER. In other words, it ought to be the same as the railroad crossing?

Mr. MATHEWS. Yes. I understand that the railroad crossing—that situation suggested this difficulty to me—I understand, except that the railroads are not enabled by their grants to permit people to go across them, and difficulty occurs at times because they do consent to let people go across when their titles do not allow it.

Mr. RAKER. By having their title in that condition they are really in a position to practically hold up development.

Mr. MATHEWS. Yes.

Mr. RAKER. And I remember one case in my district where one railroad was 10 years in getting across another railroad's right of way. It was in the mountains, where there was little timber, mostly sagebrush land, and because they got there first, when another railroad wanted to go across their right of way it took 10 years of litigation for them to get across.

Mr. SMITH of Idaho. Would this amendment, which you have probably seen, affect that:

Nothing in this act contained shall be construed as preventing the granting of rights of way for pipes, pipe lines, canals, ditches, flumes, tunnels or reservoirs for the conveyance, delivery, or storage of water for irrigation, mining or domestic purposes, or for the generation of electric power, including rights of way for the construction of power plants, towers, and transmission lines, for the generation and delivery of electricity, under existing laws of California and the United States or that may be enacted hereafter, to any person, association or corporation, over, through, upon or across the lands affected thereby, providing the rights of way granted to the city of Los Angeles shall not be damaged or curtailed by the grant of rights of way to any such person, association or corporation.

How would that suit you?

Mr. MATHEWS. We do not want that. That is in effect reserving the right to Congress or the department to grant the same lands that we are granted, to other people for specified purposes.

Mr. SMITH of Idaho. Providing, of course, that you are not damaged in any way, or your privileges curtailed.

Mr. MATHEWS. Of course that is a question. What is the damage?

Mr. RAKER. Now, as an illustration, I just had this in mind: Here is your right of way; it is 250 feet wide, is it?

Mr. MATHEWS. Yes, sir.

Mr. RAKER. Would that be 250 feet on the pole line, too? Supposing you just had your electric pole line off from the aqueduct; that right of way would be 250 feet on your electric transmission line?

Mr. MATHEWS. Yes; on our double transmission line.

Mr. RAKER. Now, supposing you had gone through a canyon or a narrow gorge with your electric transmission line, with your right of way as marked on your plat and presented to the Secretary of Interior, reserving 250 feet, and here came along the Inyokern or any other organization that wanted to build a ditch which came right down along that same narrow gorge or narrow defile; could there be any objection to your using one side of your right of way—or even if you should be moved over 100 feet where it would make no differ-

ence, along the side hill—and the other party would be permitted to use, after the Secretary had investigated and found it could be done, part of that same land for a canal or ditch, where it was investigated and found that there was no other place that they could run a ditch with any reasonable expenditure of money?

Mr. MATHEWS. There is a very serious objection, and I will draw your attention to a particular part of the aqueduct where that objection would apply.

Mr. RAKER. I did not confine that to the aqueduct now. I got off the aqueduct. I am relating now solely to the pole line, to the electric transmission line, and don't get it confused with the aqueduct, because I want to make those distinct.

Mr. MATHEWS. That is what your question relates to?

Mr. RAHER. To the transmission line exclusively.

Mr. MATHEWS. I could only say this, speaking generally—I have something else in mind to say more particularly—it is necessary for our protection, according to the judgment of our engineers who are responsible, that our own lines shall be kept a certain distance from each other, because they are all high voltage lines.

Mr. RAKER. But there is no line involved now. I am excluding—you have got your right of way on your application and your map filed for a transmission line only. Now, during the same time, and while you have got yours all in advance, the other people are working and surveying; they find that down through a narrow gorge, 5 or 10 or may be 15 miles, they will have to take, if they get their canal down through there, at least half of the right of way that you have already selected for your transmission line. Could there be any objection if, with no extra cost to you, you should move your line to the right or left, and they should be permitted to use part of what you originally filed on, what you really wanted for your transmission line, and thereby allow—for full development—the other parties to use the same or adjoining land which would be part of what you originally applied for, for a canal by reason of the fact that they could not get any other place to go through the mountains?

Mr. MATHEWS. There wouldn't be any objection to that. There you are handling canals and transmission lines through a difficult, congested place. I was starting out on that when I tried to answer it before, to speak of diffecent electric lines trying to crowd through a narrow gorge.

The CHAIRMAN. Mr. Mathews, is there any point at all where the desires of the power company or of these irrigationists are in any way incompatible with your desired use?

Mr. MATHEWS. On the ground?

The CHAIRMAN. Yes.

Mr. MATHEWS. No. My objection to this general proposed amendment—and they are varying in form; I haven't seen some of them, except I have heard them read—is that it seems to contemplate the same land that may be granted to us under our act for the purposes specified, whether it be reservoir or whether it be power-house site or whether it be canals or rights of way for transmission lines, may also be granted to someone else. We would not want that, but if you have in mind the physical conditions where one structure—

where there would be an electric line or a canal that wants to get across our right of way, whether our right of way be for electric purposes or for a canal, we see no objection to your taking pains to make a provision for crossing it, and leaving it to the Secretary of the Interior to put them across so it will be safe to both parties.

The CHAIRMAN. Is there any storage site that is desired in common by both of you, or all of you?

Mr. MATHEWS. I don't think so. I don't know of any.

The CHAIRMAN. Would you have any objection to incorporating a provision in this bill authorizing the Secretary of the Interior to allow to you certain rights of way and reservoir sites and power sites, and authorizing him to allow the same to the other parties desiring them, and let him settle it on the ground?

Mr. MATHEWS. You mean to determine what each should have?

The CHAIRMAN. Yes.

Mr. MATHEWS. Yes; we would not want that. Our bill contemplates that he should determine the question of necessity as to what we ask for, even taking into account our projects, our plans, but we would like for Congress to do just what the original act did, take care of the city to the extent that it is necessary to take care of it in regard to both the water and power.

The CHAIRMAN. I have in mind possibly the Secretary, or some one appointed by him, could go out there on the ground and select the necessary rights of way for both of you.

Mr. MATHEWS. It is a question of engineering judgment, and besides I don't know, knowing the country pretty well, of any physical condition out there that is going to bring us into conflict on those points, except possibly where the Inyokern people may want to get across our aqueduct with their aqueduct or with their power line.

Mr. ELSTON. If that is true, Mr. Mathews, why is it such a great concern to reserve the whole territory to yourself until you have made your selection, and bar others from making selections for transmission lines and storage sites when, according to your idea now, you can never come into conflict; they will never select anything that you desire, nor you what they desire?

Mr. MATHEWS. They want the protection, and I am trying to provide it.

Mr. ELSTON. Of course, that would be exclusive of somebody that would come in and make some fake location to blackmail you. That might be so.

Mr. VAILE. In connection with Mr. Elston's inquiry, haven't quite extensive rights accrued on territory included in the original limit of this law of 1906, since the city made its original selections?

Mr. MATHEWS. Rights of what character?

Mr. VAILE. Rights of irrigation companies, power companies.

Mr. MATHEWS. No, not very much. I think the Southern Sierras project crosses our aqueduct twice. That is about the only crossing that I remember.

Mr. VAILE. Well, we developed this morning in the hearing that very little additional land is asked for under this pending bill, but there is quite an extension of time. Now, we have been assured that the additional power which may be developed will not be developed

on the small amount of additional public land which will be granted under the provisions of this bill, but we have not been shown yet that rights which may have accrued in good faith will be protected.

Mr. MATHEWS. Well, we will protect those and will put anything in the bill that you want to, to protect those rights.

Mr. RAKER. Taking the chairman's two last questions and your answer, and supposing we supplement the chairman's question by giving the preference right to the city of Los Angeles, then there wouldn't be any objections to such legislation, would there?

Mr. MATHEWS. No; that is the spirit of this.

Mr. RAKER. But at the same time allow others to proceed with development.

Mr. MATHEWS. Yes.

Mr. RAKER. Now, just in this same connection, it looks a little bit off to start with, but I will come back down to it in a moment—what is the capacity of your aqueduct for the first 50 miles? Give it in cubic feet per second or miner's inches; I don't care which.

Mr. MATHEWS. Nine hundred second-feet for the first 60 miles.

Mr. RAKER. Now, the next 50-mile stretch is what?

The CHAIRMAN. Can you convert that into gallons?

Mr. MATHEWS. Yes; I can do that.

The CHAIRMAN. A second-foot is 7.48 gallons.

Mr. MATHEWS. And that for a day amounts to 646,272 gallons.

Mr. RAKER. Might I suggest this: You can put into the record before it is closed the real capacity of the ditch, can't you?

Mr. MATHEWS. Yes, sir; I will do that.

I might explain about that upper section; that is larger than elsewhere in order to take in the Owens River in flood times, and some side streams that flow down in big volume a few weeks each year.

Mr. RAKER. Now, will you tell the committee approximately the amount of water you have run through the aqueduct during the last five years during each day? Has it been one-third full, or half full, or what—of the capacity of the aqueduct?

Mr. MATHEWS. I can only state roughly and approximately. It has been a growing quantity for five years, since the aqueduct got into full swing.

Mr. RAKER. Well, what do you think you have used of the capacity of the ditch in conveying water down, say, this last year? You have had enough for the city, for its domestic purposes; you have had it for the additions to the city and for the generation of power; what part of the ditch do you suppose has been necessary to convey that water? Has it been one-third full, or one-half, or two-fifths?

Mr. MATHEWS. At times it has been two-thirds, but that would not continue. At other times it has only been half full, and varying quantities according to the season of the year. In winter it would not be so great as in summer. Take it in Los Angeles for purely domestic purposes; if you have a hot day, the consumption of water for domestic purposes will go from 75,000,000 to 125,000,000 gallons per day for ordinary domestic purposes. That is on a hot day—and I will say just confidentially that it does get hot sometimes in Los Angeles.

The CHAIRMAN. How many second-feet a day do you delive atr Los Angeles?

Mr. MATHEWS. That has varied from a few second-feet up to 300 second-feet for any length of time. At times it runs up to 400 second-feet, but for a very few weeks.

The CHAIRMAN. A second-foot per day is 646,317 gallons.

Mr. MATHEWS. This aqueduct will deliver into the city of Los Angeles—I will give you the thing concretely—running full capacity it will deliver each day approximately 270,000,000 gallons.

Mr. RAKER. Running at full capacity?

Mr. MATHEWS. Yes.

Mr. RAKER. But what I wanted to get at now was if you could tell—the record will show back home and I would like to get it into the record—how much is the largest amount that you needed and consumed and used, that was conveyed in the aqueduct?

Mr. MATHEWS. I could only tell, so far as I am concerned, from general hearsay.

Mr. RAKER. Now, being a conservationist, this is in my mind—it may sound rather raw to some people but it is not—suppose there is 50 miles of that aqueduct from the intake, or 100 miles, that at any ordinary season of the year you will only use one-half or two-thirds of it, what would be the objection to permitting others to divert into an aqueduct the same kind and quantity of water, of the same purity, and to take it out, say, 100 miles from the intake, by paying the city of Los Angeles the proper proportion for the use of the canal?

Mr. ELSTON. You want to make it a common carrier to a certain extent?

Mr. RAKER. I would like to have you answer that question, because I have seen now on the ground miles of ditches built that prevent future development, and I know you people don't want to do that, and if you are paid full value for the use of your canal, and it is large enough and could be used, why spend $6,000,000 more to parallel it, if the same kind and character of water could be taken out, all under your supervision and full compensation paid to you therefor?

The CHAIRMAN. Is that permissible under the laws of the State of California? I think it is under the laws of Oregon.

Mr. RAKER. Well, for all except the aqueduct it is, and I am a little hazy on that. It is on all the streams and canyons and ravines and rivers and everything else.

The CHAIRMAN. You can put in so much and take out so much, less evaporation?

Mr. RAKER. Yes. Before he answers the question, if it is a fact that they can turn in a third more water at the head, that is developed by other people, the same kind and character of water, that is going to waste; run it down 100 miles, and the farmers who do that, who pay their proportion of the expense of it in what it costs to build this aqueduct and keep it and maintain it, can do that for the purpose of developing 250,000 acres, I think the committee ought to get the benefit of it and consider it, and I want Mr. Mathews' views on it and his ideas before we get through.

Mr. BARBOUR. Don't you think we had better postpone that till Monday morning?

Mr. RAKER. I think it would be a good idea to postpone that till Monday morning.

Mr. BARBOUR. It will give Mr. Mathews a chance to think about it, and also allow us to adjourn for this roll call in the House.

The CHAIRMAN. We will adjourn until 10 o'clock Monday morning.

(Whereupon, at 3 o'clock p. m., the committee adjourned until 10 o'clock a. m., Monday, November 3, 1919.)

Mr. Kettner filed the following telegram for insertion in the record:)

RIVERSIDE, CALIF., *November 8, 1919.*

Hon. WILLIAM KETTNER,
House of Representatives, Washington, D. C.

The Riverdale Chamber of Commerce desired to protest against the granting by Congress of any rights to the city of Los Angeles by which it may obtain a priority in the selection of rights of way over the public lands in California. We believe such discrimination a detriment to the development of Riverside County.

H. L. BOARDMAN, *Managing Secretary.*

COMMITTEE ON PUBLIC LANDS,
HOUSE OF REPRESENTATIVES,
Monday, November 3, 1919.

The committee met at 10 o'clock a. m., Hon. Nicholas J. Sinnott (chairman) presiding.

STATEMENT OF MR. W. B. MATHEWS—Continued.

The CHAIRMAN. Mr. Mathews, I wish you would make just a brief succinct statement as to why you need this additional legislation, and why you "fell down" under the former act. I wish you would give that in a condensed statement so that it will be convenient to turn to in case we are asked that question on the floor of the House.

Mr. RAKER. And after that he may answer my question upon the point we were discussing at the last session.

The CHAIRMAN. Certainly.

Mr. MATHEWS. Mr. Chairman and gentlemen, we need the legislation here sought for these reasons and these purposes, to wit: In order that the right of way for the aqueduct as actually located and built and where it has departed from the approved right of way may be legalized. That affects a distance of approximately 75 miles of the length of the aqueduct in the aggregate. That condition of departure from the approved right of way resulted from the fact that the city did not have time under the provisions of the act of 1906 to properly survey and select locations on which to build its aqueduct.

We want the legislation, also, in order that we may have the additional time required to carry out our power enterprise, which was covered also by the act of 1906. We want that because the aqueduct occupied practically all of our time and practically exhausted all of our resources in its building, so that we could only just make a start on the power before the time limit prescribed in the act of 1906 expired.

The legislation is also desired in order that we may have for our power, instead of revocable permits merely, as provided for under

the existing general statutes, permanent rights of way and have those rights of way of the regulation width, to wit: 250 feet for a double transmission line required for standard construction under present-day practice, instead of the narrower strips provided for under the statutes now in effect.

The CHAIRMAN. What is that width under the statute?

Mr. MATHEWS. One hundred feet under revocable permits under what is known as the act of 1901.

Under what is known as the act of 1911 permanent rights of way for electric lines, 40 feet wide, or 20 feet on either side of a center line, may be obtained, but, of course, that is an impossible width for for a double, steel tower line such as the city proposes to construct.

Mr. TAYLOR. Twenty-five feet on each side, is it not?

Mr. MATHEWS. Yes, sir. The city intends to construct a double transmission line to the city, and the towers on those lines may, in some places, be 50 or 60 feet high, and lines carying high voltage power should be sufficiently removed from each other so that in case a line collapses and falls one way or the other it will not fall into the other line and produce trouble or interruption of the service. For that reason we are asking 250 feet, or 125 feet on each side of a center line, for our double transmission line.

The CHAIRMAN. Why would it not be sufficient merely to approve your line as located?

Mr. MATHEWS. Do you refer to the aqueduct line?

The CHAIRMAN. Any line that you have selected, and for which you are after a right of way. Why would it not be sufficient to come along and say in the statute that the selection you have made is approved?

Mr. MATHEWS. In effect that would be satisfactory. We have our maps already made out acording to departmental regulations, showing the aqueduct in its present location, with our field notes and incidental exhibits.

The CHAIRMAN. What would be the objection to that, instead of giving you a roving commission to go over that country? Why could we not just say that the lines you have selected are approved?

Mr. MATHEWS. I do not know that there would be any objection, provided we have our maps first on file, so that your action would have reference to something on file.

Mr. TAYLOR. Have you filed them?

Mr. MATHEWS. We have not filed maps for the permanent 250-foot power rights of way we require, because we have nothing to file under in order to get permanent easements of the width needed. In order to file maps, we must conform to the statutes in effect, and the 100-foot right of way, provided for under the existing statute, may only be obtained under revocable permits.

Mr. VAILE. Perhaps this question will develop your answer to the chairman and make you qualify your previous answer that you would not object to this plan that he suggests. If it would be sufficient merely for Congress to approve the rights of way, where your aqueduct and works are now located, would you object to the insertion of the words "development and transmission of hydro-electric power?"

Mr. MATHEWS. I think the chairman was referring to the fact that the aqueduct was not located on approved rights of way, and your question refers to power.

Mr. VAILE. I understood you to say that the city would be satisfied with a congressional act approving your present rights of way, and I thought that possibly you were preparing to admit something there that you might want to qualify. Therefore, I asked you why would you object to the insertion of the words "development and transmission of hydroelectric power," in line 20, page 5.

Mr. MATHEWS. We want, so far as the act is concerned, the rights of way we are now occupying.

The CHAIRMAN. What do you want so far as anything else is concerned?

Mr. MATHEWS. The other things we want refer to electric power.

The CHAIRMAN. And transmission lines?

Mr. MATHEWS. Transmission lines, power-house sites——

The CHAIRMAN (interposing). They have not been located or occupied, have they? No transmission lines or power sites have been located or occupied?

Mr. MATHEWS. In part they have. We secured certain permanent easements in Owens Valley for electric transmission lines, for local uses, being primarily in connection with the construction of the aqueduct and subsequently, and now for supplying power to a few consumers in that valley. Besides these, we took out revocable permits for transmission lines for delivering power into the city from its San Francisquito No. 1 Plant, 50 miles from Los Angeles, Then we have filed applications for revocable permits for the rest of our proposed transmission lines, or, perhaps, the greater part of it, these being sought for temporary purposes, pending the passage of an act under which we might obtain permanent 250-foot easements, such as are described in the pending bill. We have built one power plant and are building another one under revocable permits, depending upon Congress to give us permanent rights of way for these plants, and for other power plants, and for other transmission lines.

Mr. BARBOUR. Have you power enough developed now to furnish the city of Los Angeles?

Mr. MATHEWS. No, sir; but we will have by spring, when plant No. 2 is completed, giving us something like 60,000 horsepower.

Mr. MAYS. Are those power sites on the public domain?

Mr. MATHEWS. Yes, sir. We have revocable permits from the forestry people for both of our power-plant sites in San Francisco—Ginto Canyon, 50 miles from Los Angeles.

Mr. MAYS. Will you be operating under the general power bill which passed the House some time ago, and is now pending in the Senate?

Mr. MATHEWS. No, sir; we would not, and that is one point conceded by the Department of Agriculture when this bill was referred to that department; that is, that while there was pending the proposed water-power bill the Department of Agriculture and, I believe, the Department of the Interior, said, in effect, that since practically we were only seeking to carry out our old project and were

confining our project to the region or territory tapped by the aqueduct and through which it runs, there was no objection to permitting us to have this legislation, in spite of the fact that there was a general water-power bill pending before Congress.

Mr. MAYS. Would you prefer to operate under that bill as it now is, if it were enacted into law?

Mr. MATHEWS. No, sir; we would rather have this. I appeared before the special House committee of the Sixty-fifth Congress and sought to get the bill under consideration by that committee changed in behalf of municipalities, but my proposed amendments were not adopted. I am not familiar with the present bill, unless it is substantially the same as the one approved by that committee in the former Congress.

The CHAIRMAN. If we only approved the rights of way that you have selected and built upon then it would leave you out as to your transmission line.

Mr. MATHEWS. Yes, sir.

Mr. OSBORNE. In order to clear up one point I would like to ask Mr. Mathews if it is not a fact that one other very important reason why these grants should be made is that it is necessary to raise by bonds a still larger amount of money? We have voted bonds, but they have to be sold, and, in order to sell them, we must have substantial rights of way for our line, and that is one of the very important reasons why we need this legislation.

Mr. MATHEWS. I want to correct that in this particular, that we have not voted bonds yet to construct our long transmission line.

Mr. OSBORNE. We have voted bonds——

Mr. MATHEWS (interposing). That is for the purchase of a distributing system in Los Angeles and for certain power development work.

Mr. OSBORNE. But we will vote them, and will need this legislation.

Mr. VAILE. For the transmission lines?

Mr. MATHEWS. We will need to go before the people with a large bond issue to build this transmission line. We have just recently, within the last six months, voted $13,500,000 for power purposes, $11,000,000 of which will go for the purchase of the internal distributing system of the Edison Co. in Los Angeles. Two and a half million dollars will go toward power development, such as power houses, tunnels, reservoir machinery, and so forth. We will still have to go before the people for a large sum of money, or many millions of dollars, to complete the transmission lines.

Mr. OSBORNE. My point is that we must have clearly defined rights in order to get the people to vote the bonds.

Mr. VAILE. Now, do you expect under this act to have the right to construct transmission lines which are not now located?

Mr. MATHEWS. Yes, sir.

Mr. VAILE. Do you know where they will be?

Mr. MATHEWS. Yes, sir. For obvious reasons they will follow pretty closely, but not exactly parallel to the aqueduct itself, because of economy of administration and because the country requires it to be built there if it is headed toward Los Angeles.

Mr. VAILE. Why was it impossible to locate this transmission line before?

Mr. MATHEWS. Within the time limit fixed by the former act of 1906?

Mr. VAILE. Yes.

Mr. MATHEWS. We did not have time.

The CHAIRMAN. How much time were you allowed under that act?

Mr. MATHEWS. We had one year within which to file the original and maps, two years for amendments, but the term "amendments" was construed by the department to exclude all right of applications not germane to the original applications. New lines, such as were not within the scope of those covered by the original applications were rejected. Amendments suggested or required by actual construction came, as a rule, after the expiration of the one-year period, and even of the further two-year period, and were therefore too late.

Mr. TAYLOR. I might say in further answer to the question about this general water power bill that I am a member of the water power committee and I offered in that committee, when we were considering that bill, as the chairman will remember, several of the principal amendments suggested to the general water power bill by Mr. Mathews in the interest of municipal ownership of a power plant, and all of them were voted down by a large majority of the committee. As a matter of fact, I felt that if the water powers of the country were to be given to somebody, these municipalities should at least have an even break with the power companies. While we do have a municipal water-power clause in the bill, it is nothing like as strong as I would like it to be.

Mr. BARBOUR. There is a provision in the power bill under which municipalities exercise certain rights.

Mr. TAYLOR. Yes; but they are hedged around so that they do not amount to much, and even if that bill should pass, that is nothing at all like giving them some title. They can not finance a 30 or 50 million dollar proposition under mere revocable permits, at the whim of some superservicable or piqued subordinate.

The CHAIRMAN. Under that bill, the Government has the right of recapture.

Mr. MAYS. That specific objection you are making might be made as a general objection to the whole bill—that is, you would have some trouble in financing projects under it when you have only revocable permits back of you.

Mr. RAKER. There is no revocable permit under the general water power bill.

Mr. MAYS. There is a recapture provision.

Mr. TAYLOR. There is a recapture provision, and it is hedged about by all sorts of conditions and limitations. The permittees will have to walk a mighty straight and narrow bureaucratic chalk line or they will get thrown out.

Mr. RAKER. It provides for a 50-year period, with no revocable permits.

Mr. TAYLOR. Oh, yes; subject to all kinds of rules and regulations, that may be changed as often as the wind. My thought is that the people of the cities and towns adjoining coal fields and water power

sites are a part of the people of this country; they are a part of the body politic, a part of our Government, and that if Congress is going to open up these vast and valuable resources to acquisition by private corporations to be exploited for gain, that the inhabitants of those cities and towns ought to at least have an even break and a fair chance to utilize if they can these resources for the benefit of their inhabitants; and the cities and towns ought to be incouraged in their commendable efforts, instead of being discouraged.

The CHAIRMAN. There is a distinction to be made between a city and a private corporation.

Mr. MAYS. Only when you go to raise the money. Then the city has an advantage over the private person or corporation.

The CHAIRMAN. I had reference to the recapture provision.

Mr. MATHEWS. Under the laws of California, in order to have a bond issue, you must get a two-thirds vote of the people. Any substantial opposition will beat the bonds, and you must expend money in organizing the whole city for the vote.

Mr. TAYLOR. How many of these corporations appearing here in opposition to this bill are now obstructing this work by litigating with the city? Give the names of them so that we may have that statement in the record.

Mr. MATHEWS. There is the Southern Sierras Power Co. here openly appearing and opposing us. Then not appearing here openly but fighting us down in Los Angeles is the Los Angeles Gas and Electric Corporation. That company and two other local power companies opposed the building of the aqueduct because it meant municipal power in competition with them.

Mr. TAYLOR. You said the other day that when you undertook to have a bond issue or to vote bonds, a number of those companies brought suit against the city.

Mr. MATHEWS. Yes, the Los Angeles Gas & Electric Corporation, itself or through its dummies with lawyers paid by that company, ever since Los Angeles projected its power enterprise, has been and is now attacking in the courts the power bond proceedings of the city. We voted $13,500,000 of power bonds on June 3, 1919. Those bonds were authorized by the people, and I am now handling litigation for the city in five or six suits against those bonds brought or instigated by that company to prevent the bonds from being issued.

Mr. TAYLOR. Were those five or six suits brought by this one company?

Mr. MATHEWS. Yes, sir; they were brought either in its own name or in the name of people acting at its instance and with attorneys paid that company.

Mr. BARBOUR. They are not represented here, are they?

Mr. MATHEWS. No, sir; they are not here now. We had to make a change in this bill to obviate their oposition, as the Congressman from Los Angeles will state to you.

Mr. TAYLOR. You are not now asking for any different legislation from what they all and we agreed upon in this committee in the last Congress?

Mr. MATHEWS. No, sir; it is identically the same.

Mr. TAYLOR. Why do they now object to this committee reporting out that same bill? What is the matter? What are they objecting to?

Mr. CONSAUL. May I make a suggestion in reply to Mr. Taylor. I would like to say that the objections now being urged are by those who were not here at the last Congress, except, as I understand, Mr. Adams, who wishes the insertion of an additional provision——

Mr. TAYLOR (interposing). All of you knew about everything in the last Congress. There was nothing secret about the three or four days of public hearings that were printed in as many pamphlets.

Mr. BARBOUR. Are the interests different from those that were affected a year or two ago?

The CHAIRMAN. That will be a matter for them to reply to. Let them develop that, and let Mr. Mathews come back, if necessary, and answer it.

Mr. VAILE. I want to ask another question: Mr. Mathews, you stated a moment ago in reply to one of my questions that the reason why the city did not locate the transmission line which you now desire under the former act was that they did not have the time. I observe that section 2 of the former act provides that within one year after the passage of the act the city shall have the right to file maps. That would carry it to June 30, 1907. Then two years after that you had the right to file amended maps showing changes in the locations which were filed before. That would carry you up to June 30, 1909. It has been over ten years since then, and, in the meantime, has it been possible for other people to come in and acquire rights under the general laws?

Mr. MATHEWS. The situation is substantially the same now as it was then. We kept faith with the Colorado company in regard to Bishop Creek. They have since extended their operations up into Mono basin, and that as well as Bishop Creek is excluded by this bill. That company has no power development in that country on any other streams.

Mr. VAILE. You do not think that any rights adverse to what you claimed have been acquired in the last 10 years?

Mr. MATHEWS. Not in the region covered by this bill.

Mr. SMITH. I call attention to this proviso beginning with line 17, page 5:

And provided further, That the grant hereby made shall not apply to any lands or rights of way included in any applications filed by, and thereafter approved to, any person or corporation for the development of hydroelectric power in connection with any project upon which actual construction work was being performed prior to June 30, 1906.

Mr. VAILE. By that provision you require other locators to commence actual construction work, and have their applications filed.

Mr. SMITH. On page 4 you have this provision:

Provided, however, That this act shall not apply to any land embraced in rights of way heretofore approved under any act of Congress, nor affect the adjudication of any pending applications for rights of way," etc.

Mr. MATHEWS. That protects everybody. We only get what is left.

The CHAIRMAN. Would you have any objection, Mr. Mathews, to permitting the Secretary of the Interior to decide whether, or not, a common use of your rights of way or the parralleling of them by some other company is incompatible with your use?

Mr. MATHEWS. I would hardly be willing to stipulate that, as it is a matter of the utmost public importance, and an engineering

matter, seriously affecting Los Angeles, that our works should be built and maintained in a safe and efficient condition. Other, or private, works on our rights of way might be a very serious menace or interference with us.

The CHAIRMAN. Do you not think that you could leave that matter to the Secretary of the Interior to decide in case these people may want to parallel you in a certain place or to cross your right of way? If you do not want them to do that, to let the Secretary of the Interior determine whether or not such use by them will jeopardize your rights or be incompatible with the use of the same right of way by yourself? What is the objection to letting him decide, giving you the preference? Somebody has got to decide it?

Mr. MATHEWS. I am willing to make this concession, that it would be competent for the Secretary of the Interior, under such regulations as he might prescribe, and in his discretion to provide for the crossing of rights of way that we might obtain under this legislation by any person wishing to cross under rights of way granted by the Government for water purposes or for the conveyance of power.

Mr. TAYLOR. Transmission lines that do not interefere with your water or power works?

Mr. MATHEWS. Leaving to the Secretary to determine whether that could be done without detriment to our works.

The CHAIRMAN. I wish you would draw a tentative amendment covering that.

Mr. MAYS. Crossing or paralleling, including Judge Raker's statement as to what it means to cross or parallel.

Mr. TAYLOR. Outside of your right of way they have that right?

Mr. MATHEWS. Yes, sir.

Mr. TAYLOR. But not to build on your own right of way?

Mr. MATHEWS. We have no objection to that for limited distances as the Secretary might decide.

The CHAIRMAN. I wish you would draw a tentative amendment.

Mr. MATHEWS. I thought you meant to grant a right of way on our own rights of way. We would be willing to let them cross the right of way as the Secretary of the Interior may decide.

Mr. SMITH. In this bill it appears that you agree to a provision at the top of page 6.

Provided, That such application for rights of way over, or the right to use lands shall be filled within six months from the date of the passage of this act.

It seems to me under that provision you have practically conceded to the other applicants the right to file their application in advance, although they may interfere with you?

Mr. MATHEWS. That is in connection with the development of power by a particular company in the Owens River Gorge.

Mr. ELSTON. There is only one company that fits the language of that proviso.

Mr. RAKER. And it must have been in operation in 1906 and continued?

Mr. ELSTON. Yes, sir.

Mr. MATHEWS. I can give you that amendment right now.

The CHAIRMAN. And also put it in the record at this point.

Mr. MATHEWS. Yes, sir. Add this at the end of section 3, top of page 6:

Provided further, That the rights of way hereby granted shall be subject to the right of the head of the department having jurisdiction over the land, in his discretion, and under such conditions and regulations as he shall prescribe, to authorize the grantee, or his assigns, of any right of way granted or approved under an act of Congress now in force or hereafter passed, for a pipe, pipe-line, canal, ditch, or flume for the conveyance of water, or lines for the transmission of electric power, to construct and maintain the same across the rights of way hereby granted in such manner and at such points as the head of such department shall find will be without interference with or detriment to the construction, maintenance, or operation of the works of said city.

Mr. TAYLOR (interposing). Is not that broad enough?

Mr. SMITH. It seems to me that that should precede this provision.

Mr. MATHEWS. It may be that it is not in its proper place.

Mr. RAKER. Have you a plat showing the aqueduct, together with the transmission lines which you desired before you commenced the construction, that you filed with the Secretary of the Interior?

Mr. MATHEWS. No; I have not. The department has the maps.

Mr. RAKER. Have you not, as the representative of the city of Los Angeles, a map showing the application originally filed for the aqueduct, together with the transmission lines and the reservoir sites that you have applied for?

Mr. MATHEWS. I have not the maps here, but they are on file.

Mr. RAKER. Have you on the same map placed the aqueduct as actually constructed now upon the ground, together with the transmission lines?

Mr. MATHEWS. Yes; we could put that on the map if permitted to do so. I might say, to explain to you, that if you would take the map as filed and put thereon the aqueduct as located you would hardly be able to see the difference, it would be so close in conformity, because the scale is such that it would not make a very large difference on the map.

Mr. RAKER. Could you place on the same map, so that it would be before the committee, the rights of way for aqueduct or canal, together with the transmission lines and reservoir sites that you now have constructed or in process of construction, that are under the revocable permits and not under the act of 1906?

Mr. MATHEWS. I do not believe I could. The procedure under the revocable permits issued by the Forest Service is very informal and not necessarily requiring exact surveys or maps like the rights of way which are obtained under other provisions of the law. In order to get the approval of the Secretary of the Interior you have to have an exact location, according to actual surveys, with field notes and data, for the purpose of getting his approval.

Mr. ELSTON. I understand that a great deal of the power that you are now using and a great deal of the power that you expect to use to make up the 60,000 or 70,000 horsepower which you expect to have available by next spring has been developed, not under any grants made in the original act of 1906, but under revocable permits for storage and for power sites and for transmission lines, granted by the Forestry Bureau of the Department of Agriculture?

Mr. MATHEWS. That is right.

Mr. ELSTON. Under revocable permits?

Mr. MATHEWS. Yes, sir; in Los Angeles County.

The CHAIRMAN. Under revocable permits?

Mr. MATHEWS. Yes, sir. We have been six or seven years trying to get an extension of time; in fact, since 1911.

You asked me a question on Saturday, Judge Raker?

Mr. RAKER. Yes.

Mr. MATHEWS. I remember the question. I think it was with reference to the possible use by private parties of the upper end of the aqueduct for conveying water for their purposes. That was the question, Judge?

Mr. RAKER. Yes, sir; in substance.

Mr. MATHEWS. As my statement heretofore made disclosed, the upper end of the aqueduct has an unusually large capacity. That is, for a distance of 60 miles it has a capacity of 900 second-feet. From there on the aqueduct has its regular, normal capacity, a capacity to provide for a delivery into the city of Los Angeles of 400 and odd second-feet of water. That flow of large capacity at the upper end enables the city to take care of the flood flow of the streams which occurs in the spring and summer months. They rush down in great volume for a few weeks and then subside. This large capacity enables the city to take the water when running high and to carry it down and store it. After a while those streams fall to a comparatively small flow. That capacity is designed so as to fairly accommodate the water which will be available and it is no more than is reasonably necessary for that purpose. Anybody else having a water supply in that country which he wished to have conveyed through the same aqueduct would have to convery his water at practically the same time as the city, that is, when the streams are in their flow and running abundantly, and at that time the entire aqueduct capacity would be needed by the city. Those streams do not have a uniform flow throughout the year. They run big for a little while and then are small. That is one practical consideration. Again, we are hedged about in our charter as to how we may handle our waterworks. The charter says that we may not even lease them without a vote of the people and it requires the assent of two-thirds of the people to authorize it. If you desire, I can read you the section of the charter which covers that point.

The CHAIRMAN. You may put that in the record.

Mr. VAILE. For the information of the Members of the House.

Mr. TAYLOR. You have no power to concede away the vested legal rights of the city.

The CHAIRMAN. If it is brief you may read it to the committee.

Mr. MATHEWS. Yes, sir. Subdivision 41 of section 2 of the charter of the city of Los Angeles, as now in force, provides:

No wharf, dock, seawall, pier, mole, warehouse, drydock, marine way, railroad, interurban railroad, street railway, electric road, traction road, steamship, or vessel or other means of transportation or telephone system, telegraph system, canal, conduit, subway, water system, gas, or electric plant or system, light or power works or plant or any other property used in connection therewith, or any public utility now or hereafter owned or controlled by the city of Los Angeles or the right to generate or develop electric or other power by means of any water or water right now or hereafter owned or controlled by said city, shall ever be sold, conveyed, transferred, leased, or other-

wise disposed of, in whole or in part, without the assent of two-thirds of the qualified voters of said city voting on the proposition at a general or special election at which said proposition shall be legally submitted.

Mr. RAKER. You do not quite answer my question. I assume that to be the law. Also, I assume that at times there might be some need for practically nine-tenths or maybe all of the capacity of the aqueduct to carry the water as you have designated, but supposing there are times, two-thirds of the year, when the aqueduct can not carry the water because the city does not have it, what would be the objection to allowing others to utilize the canal now constructed to convey water which will not interfere in any way, shape or form with the city conveying its water, the parties paying the proportionate amount for the use of the property in thus conveying the water?

Mr. MATHEWS. I call your attention to the charter, imposing the restrictions upon our right to permit others to use our works under lease or otherwise. Again, the aqueduct, which is a single conduit, is the source of a supply of water for the city, and it will be the source of the bulk of the city's power. That shows the prime importance of the aqueduct for municipal purposes, and also shows how important it is that the city shall have absolute control for its own purposes of the aqueduct in order that it may be maintained and kept in running order. The country throughout the section to which you particularly refer, is what is called volcanic. In that country, since the aqueduct was completed and put in commission, have occurred earthquake disturbances which have damaged the aqueduct and resulted in the water running out and the service being interrupted for several weeks. I do not think, Judge, that the city could, for a minute, think of having everybody else use that aqueduct or having any use of it that would impose any additional burden or responsibility on the engineers to keep the aqueduct going.

The CHAIRMAN. Would it cause the water to be polluted by any of the salts which you have referred to?

Mr. MATHEWS. No. There would not be any question of pollution, assuming that the water put in by other people would be of good quality.

Mr. TAYLOR. Anybody wanting that kind of a right would have to go to the city and get two-thirds of the votes of the inhabitants. We have no power to barter away any of the city's legal rights in violation of its organic charter?

Mr. MATHEWS. No, sir.

Mr. TAYLOR. And anybody going before the people of the city and getting that vote can get that right?

Mr. MATHEWS. If anybody has in mind the conveyance of his water supply in the aqueduct he should negotiates with the city, because of the prime importance of the aqueduct, as regards both water and power, to the city.

The CHAIRMAN. Do the laws of California provide for the common use of conduits for water?

Mr. MATHEWS. So far as I know there is no law so far as municipal works are concerned. I thought you made the statement with regard to your State. There may be some provision as to the joint use of works by private parties for irrigation or other purposes, but there is no law authorizing municipalities to permit the use

of their waterworks by private parties. The Judge may know of some law.

Mr. RAKER. And I put it so there will be no doubt, under all the facts which you have designated, namely, the prior and absolute right of the city to control the aqueduct and to control the water that goes in and comes out, and that it first must be an ample supply for the city at all times for domestic purposes, and must be an ample supply at all times for the generation of electricity, according and under the provisions and the rights that the city has, when those are all supplied, if the aqueduct is capable, by virtue of capacity, and also capable by virtue of strength to carry a third or two-thirds more water, the city being paid for the conveyance, what would be the objection, as a common carrier, of the use of the aqueduct for conveying water for the purposes of irrigation and to other cities?

Mr. MATHEWS. I do not wish to negotiate or make any stipulation for the use by private parties of the public works of Los Angeles.

Mr. SMITH. You will not admit, Mr. Mathews, that this aqueduct is a common carrier?

Mr. MATHEWS. No; it is not.

Mr. SMITH. That is what the judge is assuming.

Mr. RAKER. No.

Mr. MAYS. Would there be danger of contamination by permitting this water to flow into the canal?

Mr. MATHEWS. There might be; but I assume not.

Mr. OSBORNE. Permit me to make a suggestion on the line of Judge Raker's question. For instance, just like the present season, for two or three seasons we have had dry seasons—extremely dry. We have five reservoirs; one reservoir, the Hewaii, is a very large one; it holds an immense supply of water.

Mr. MATHEWS. May I interrupt you?

Mr. OSBORNE. Certainly.

Mr. MATHEWS. It holds about a 75-days' supply, running the aqueduct full.

Mr. OSBORNE. I got that some years ago, about a three years' supply. I suppose that was what the city needed at that time. That is the regulating factor in keeping up the regular flow of water below in the dry season. When we do get some water, then we try to use that conduit to its full capacity in order to fill up the reservoir again. That reservoir is a great big lake. It takes a long time to fill it. The full capacity of the aqueduct would be needed to fill up the reservoir to warrant the city in expecting a constant flow of water.

Mr. RAKER. So as to make myself plain, I was not assuming that anybody was interested, and I was not assuming that the aqueduct is or is not a common carrier, but I do assume and I know that at least above the intake is a common carrier used by the city of Los Angeles and the people in the valley, because I have been there and have seen it, and I also know that they come to Congress to get the right of way, whether it is a city or not. All of the things being equal, as suggested by yourself and Mr. Mathews, if the aqueduct has sufficient capacity to supply all the domestic needs and all the electrical needs, and if, in that event, there is a third or one-half unused water, why should it not be used by others if it can be done

without any injury to the city and at the same time be of benefit to the State?

Mr. SUMMERS. At what compensation?

Mr. RAKER. That is a matter that could easily be worked out.

Mr. ELSTON. If you concede that Congress has any authority to declare that conduit to be a common carrier.

Mr. RAKER. I am not assuming any legal phase, but I do know that Congress beyond all question has plenary power in granting a right of way to designate the conditions upon which it is granted.

Mr. ELSTON. That is true. That condition could be met by a two-thirds vote.

Mr. RAKER. I am simply asking you, from your own observation and knowledge of the aqueduct, its capacity, etc., whether or not such a thing could be done. Then, it is up to the various officials——

Mr. BARBOUR (interposing). Suppose we attach an amendment of that kind to this bill, requiring the city of Los Angeles to permit the use of the aqueduct, and the officials of Los Angeles submitted it to a vote of the people and did not get the two-thirds, which I doubt very much they would, then, what would be the situation, if I may submit a parliamentary inquiry, Judge? Would the Government then step in and, in order to enforce the condition, refuse the city of Los Angeles permission to use its aqueduct across Government land?

Mr. RAKER. I am confining my questions specifically to the aqueduct as constructed.

Mr. BARBOUR. I am asking for information.

Mr. RAKER. I understand; but I do believe that in the case of any future construction it could be done legally.

The CHAIRMAN. Why not discuss that question in the executive session?

Mr. RAKER. Yes, sir. I just brought up the question, where it can be done and where there is no detriment to the one who obtains the first application, that it is an advantage to them, because they would be repaid for their cost of construction and maintenance.

Mr. TAYLOR. Let us hear the other side of this matter.

Mr. ELSTON. Hear the other side and then permit Mr. Mathews to reply.

The CHAIRMAN. Who is in charge of the objection to the bill?

Mr. BARBOUR. There are several objectors here. I do not know whether they are working in unison, although they are not inharmonious. Mr. Edgar is here and Mr. Fritz, who represents the irrigation interests, and Judge Dickinson and Mr. Adams, I understand, represent the power interests.

The CHAIRMAN. Why not hear from Mr. Fritz and Mr. Edgar, then?

Mr. BARBOUR. Any way at all.

The following telegram was inserted at the request of Mr. Mathews:

LOS ANGELES, CALIF., *October 30, 1919.*

Hon. NICHOLAS J. SINNOTT,
Chairman of Public Lands Committee,
House of Representatives, Washington, D. C.:

We, the undersigned, residents and large landowners in the Indian Wells Valley, which includes Inyo-Kern and Brown districts lands mostly situated in

Kern County, Calif., have personally studied the Los Angeles right of way bill, known as House Resolution 406, and we are convinced that such bill is only fair to Los Angeles, and owing to conditions and safeguards specified in the bill there is no ground for protest or opposition to the passage of the bill. For this reason we feel that the protest which has heretofore been filed and which seeks to place our valley in opposition to such bill are contrary to the best interests of our valley and should be disregarded.

(Signed) ALEX MORRISON.
W. H. GEORGE.
MARIA DALBY.
MARY F. COPPA.
HOWARD GILL.
A. J. MORRISON.

The CHAIRMAN. We will first hear from Mr. Edgar.

STATEMENT OF MR. W. A. EDGAR, IMPERIAL, CALIF.

The CHAIRMAN. Please tell us who you are and whom you represent.

Mr. EDGAR. My name is W. A. Edgar, of Imperial, Calif., representing the landowners in the Inyo-Kern Valley and Fremont Valley.

The CHAIRMAN. How did you come to represent them, did you have a meeting, how were you selected?

Mr. EDGAR. I was just going to say that we were selected by the farmers themselves in a mass meeting or indirectly they selected a general committee to select us to come here. We have no connection——

The CHAIRMAN (interposing). How many were present at that meeting?

Mr. EDGAR. Something like 150 of the landholders of those two valleys. We have no connection whatever with any power company. We have sought friendly relations with the city of Los Angeles, and, perhaps, had Mr. Mathews been as friendly in times when we have sought to get on a better footing with them, we might have saved the expense of coming here.

It seems to us that the language of the proposed bill is so vague and, perhaps, ambiguous——

The CHAIRMAN (interposing). Just a moment. Inasmuch as it has been suggested that the power companies are behind some people, I hope you will not deem it impertinent, and I do not mean it to be so, to ask you whether or not your expenses are being paid by any power company?

Mr. EDGAR. Not at all. Our expenses are paid by the farmers, and they put up for this purpose and other incidental purposes, in a way, 10 cents an acre on their land. We are supported here absolutely by no power people in any way. We are here, perhaps, a little late. We got together after your former consideration. Our lawyer pointed out that the bill might absolutely shut us out, and we wanted to guard against being shut out. We have a similar construction paralleling their construction, but from sources absolutely independent of theirs and from sources practically independent of any power concern, except that common use might be made of the waters in the upper reaches of our country for power development and irrigation development. We are here solely in the interest of the landowners and at their expense, asking that this bill shall not exclude us from

getting our projects, which we think are not in conflict with Los Angeles, through the same common country that they are passing. I will leave to Mr. Fritz to formally tell you just what our plans are and why we are here.

Mr. BARBOUR. Why is it necessary for you to go through the same common country, you and the irrigationists that you represent? Why is there not room enough for all of you in that great big stretch?

Mr. EDGAR. The same common country is laid there by nature, through the Owens River Valley, and for economy's sake we will have to follow that valley. At certain points that valley is very narrow, and unless protected we might be shut out absolutely in our ability to cross or, perhaps, for a short distance, to parallel their construction.

Mr. ELSTON. On their right of way?

Mr. EDGAR. It might be possible for a short distance on their right of way. A pole line, a transmission line, could be carried up the hill, but far enough away from them so that it would not interfere with their carrying their power in any sense.

The CHAIRMAN. Could that be done without interfering with their use?

Mr. EDGAR. I can conceive of no reason why they could not be protected absolutely in the construction.

The CHAIRMAN. Would you be willing to leave it to the Secretary of the Interior to determine whether or not your desired rights would interfere with theirs?

Mr. EDGAR. Yes, sir.

The CHAIRMAN. And make theirs a preference right in case it does interfere?

Mr. EDGAR. Yes, sir. We want nothing to interfere.

Mr. BARBOUR. Suppose the Secretary should decide that your right interfered with theirs and they had a preference right, would you be shut off entirely?

Mr. EDGAR. We want this bill to provide that we shall not be shut off; we want some way devised so that we can get under or over it.

Mr. BARBOUR. You do not want the Secretary or anybody else to shut you out entirely?

Mr. EDGAR. No, sir.

Mr. BARBOUR. If you are permitted to come through, you are willing that they shall have the preference right?

Mr. EDGAR. Yes, sir.

The CHAIRMAN. How large would your conduit be?

Mr. EDGAR. It will be similar to the Los Angeles conduit.

The CHAIRMAN. How many second-feet will you convey where you desire to cross them?

Mr. EDGAR. In the neighborhood of 450 second-feet.

Mr. TAYLOR. You are not asking for any of the waters of the city?

Mr. EDGAR. Not at all.

Mr. ELSTON. You are concerned only with crossing rights and not at all with how much they get in the way of grants of rights of way or storage or reservoir or power sites or anything else?

Mr. EDGAR. Not at all, excepting we object to them getting an exclusive blanket option or right to select out of vast areas, for two or three years in the future.

Mr. Mathews has told you they have developed 400 cubic second-feet of water, this amounts to about 260,000,000 gallons each 24 hours. The use of water in cities runs from 25 gallons per capita per day to 125 gallons. The lesser amount takes care of absolute living necessities. The larger amount allows for irrigating vast lawns, parks, and ornamental gardens, which are delightful but more or less non-essential, and to this extent agricultural use might deserve preferential consideration.

Allowing Los Angeles a population, as claimed, of 600,000, the water already developed provides about 435 gallons per capita per day, which will take care of Los Angeles till its population is three or four times as great, or for 200 years in the future perhaps.

Mr. SUMMERS. Does your water supply come from Owens River?

Mr. EDGAR. No; from Mono Lake, away above it, entirely above them. And in dropping to their level, about 2,000 feet, we develop electricity they can not possibly develop. They have absolutely no way of developing it, and no power company has any way of developing this electricity except by doing the same thing we intend to do, bring the waters down for irrigation.

Mr. RAKER. About how many miles north is the Inyokern Mojave irrigation acqueduct from the Los Angeles aqueduct, where you commence to develop it at Mono Lake?

Mr. EDGAR. About 100 miles above them where we commence to develop it.

Mr. ELSTON. Then that would make the whole length of your aqueduct how long?

Mr. EDGAR. Something over 200 miles.

Mr. ELSTON. Almost as long as the Los Angeles aqueduct?

Mr. EDGAR. Yes.

Mr. RAKER. You have an aqueduct and in connection with that you use the natural channels?

Mr. EDGAR. We use the natural channels for perhaps two-thirds of our way.

Mr. SUMMERS. Natural channels of what?

Mr. EDGAR. Gorges, the mountain gorges; so that really no conflict might occur with Los Angeles excepting in the Owens River, which is already used as a common carrier. We would have to use that, perhaps, for about 35 miles. Above that we would be absolutely independent of what Los Angeles is using and absolutely independent of what any power company is using. A power company can not develop the electricity we are going to develop except by building the same water proposition we are intending to build. So that we are in conflict with no one excepting, possibly, as to rights of way for transmission in getting through the country lower down.

Mr. SUMMERS. Does Owen River drain Mono Lake?

Mr. EDGAR. No; not at all. They are considered to be absolutely separate drainages; although at some time in past history—perhaps thousands of years ago—the drainage in Mono Lake perhaps went down to the Owen River country. But that is away beyond the history of man, and the geologists now tell you that Mono Basin is a distinct and separate basin.

Mr. ELSTON. With a mountain range between?

Mr. EDGAR. With a large range or a rim of the basin between.

Mr. BARBOUR. Did you state about when the Mono, Freemont, and Mojave irrigation project started?

Mr. EDGAR. The people got together in May. The people have been coming in there for the last two, or three, or four years, and have taken Government entries, and in Inyokern Valley there were no privately-owned lands. The lands were all taken up from the Government. But in the Freemont and Mojave Valley every alternate section is a railroad section, and that is now held by small holders, and they are working with other land claimants in an attempt to get irrigation.

Mr. BARBOUR. A large part of the territory covered by this project is situated in the Mojave Desert?

Mr. EDGAR. A small part.

Mr. BARBOUR. And a good deal of the other land is a good deal of the same kind of land you find in the Mojave Desert, is it not?

Mr. EDGAR. Yes; only perhaps it is more fertile, and perhaps a little more benefited by rains.

Mr. BARBOUR. What would you say about that land without water and the possibilities with water?

Mr. EDGAR. Without water it is practically useless for agriculture. With water it perhaps can be made to produce annually a net income in the neighborhood of $100 an acre, with the development that is going on in that locality and with that climate.

Mr. ELSTON. That would make the revenue-producing value of the land $1,000 an acre, figuring on it producing 10 per cent revenue?

Mr. EDGAR. Yes.

Mr. RAKER. How much land do you expect to irrigate?

Mr. EDGAR. We hope to irrigate 250,000 acres, depending on how much of this water they determine on, being there, and so forth.

Mr. TAYLOR. Are you in litigation with any power companies?

Mr. EDGAR. Not at all.

Mr. TAYLOR. You have the whole field to yourself up there?

Mr. EDGAR. So far as they are using it at the present time.

The CHAIRMAN. You represent an irrigation district?

Mr. EDGAR. It is not an irrigation district. Some one, perhaps, has worded it that way, but it is a mistake in the use of that term. We hope to organize a district and to proceed under that act.

The CHAIRMAN. What is this Inyo-Kern Mojave Irrigation District of which Mr. F. J. Sanders is a member of the executive committee?

Mr. EDGAR. That is our people.

The CHAIRMAN. That is your company?

Mr. EDGAR. That is our company.

The CHAIRMAN. Why did you use that expression?

Mr. EDGAR. I do not know why they used that expression. He has no right to use that expression as "a company." We have associated ourselves together informally for the purpose of getting started.

The CHAIRMAN. You have no particular legal status?

Mr. EDGAR. No.

Mr. VAILE. You only have a voluntary status?

Mr. EDGAR. A voluntary status.

Mr. SMITH. You heard the suggested amendment of Mr. Mathews a while ago: Is that satisfactory?

Mr. EDGAR. I believe you gentlemen can make it satisfactory. We are not lawyers and can not say whether it is satisfactory to us but

we believe you gentlemen here can protect us. And that is all we are asking. We want a right of way and we do not want to be shut out with our project, and we believe Los Angeles intends to do so, although the wording of the bill here might give them some little authorization of right to shut us out. And we do not want to be shut out; we want it kept open.

Mr. ELSTON. Did you read this suggested amendment of Mr. Mathews? Don't you think that protects you?

Mr. EDGAR. Our proposed amendment, as we presented it here, we think protects us. Any changes from that particular amendment we can not say.

Mr. BARBOUR. Are you people in the Inyo-Kern, Freemont, and Mojave District working or in any way associated with this big irrigation movement that is now under way in Kern County, Calif., that started a year or so ago?

Mr. EDGAR. No, sir; we are on the other side of the range—on the other side of the Sierras. We are on the east of the Sierras and they are west of the Sierras.

Mr. BARBOUR. Where are you in relation to Tehachapi, south of them?

Mr. EDGAR. Our land lies to the north and east of the Tehachapi; except a small portion of it lying south and east of Tehachapi.

The CHAIRMAN. Do you expect to function there as a Government irrigation district?

Mr. EDGAR. Yes, sir.

The CHAIRMAN. But you have not organized as an irrigation district?

Mr. EDGAR. No, sir.

The CHAIRMAN. What is your project estimated to cost?

Mr. EDGAR. We have only a very, very inaccurate estimate. We judge that it will cost us somewhere in the neighborhood of $15,000,000.

The CHAIRMAN. How much money have you expended to date?

Mr. EDGAR. We have only taken up slight investigations and the taking care of our rights of way by getting this committee here.

The CHAIRMAN. How much have you expended?

Mr. EDGAR. On the project? Oh, a couple or three thousand dollars.

The CHAIRMAN. Have you done any construction work?

Mr EDGAR. No, sir.

Mr. ELSTON. It is all tentative?

Mr. EDGAR. Just starting.

The CHAIRMAN. Where are the points you are likely to be in conflict with the Los Angeles system?

Mr. EDGAR. As we can see it, at the Haiwee Pass, where their reservoir is, and lower down at Rose Valley Pass.

The CHAIRMAN. How wide is the Haiwee point?

Mr. EDGAR. The valley there is not very wide. Perhaps the whole pass in there is within four or five miles and the mountainous walls are quite high and considerably abrupt. The actual bottom floor is narrow.

The CHAIRMAN. How narrow?

Mr. EDGAR. I can not tell you. A few hundred feet. There is a possibility above of having an independent 500 feet and perhaps we can have an entirely independent right of way; but for the economy of construction for water——

The CHAIRMAN. How wide is it actually; about 500 feet?

Mr. EDGAR. I should judge about 500 feet.

The CHAIRMAN. No narrower than that?

Mr. EDGAR. The floor, probably not.

The CHAIRMAN. What is the next point and how wide is it?

Mr. EDGAR. It is smaller at Rose Valley.

The CHAIRMAN. Five hundred feet?

Mr. EDGAR. Possibly; the actual floor, you understand, the level bottom.

The CHAIRMAN. As a matter of fact, you think there is plenty of room for both of you to operate there?

Mr. EDGAR. I think so.

Mr. RAKER. For how many miles would your aqueduct, after it leaves the Owens River, approximately where the Los Angeles intake is now, parallel the Los Angeles intake?

Mr. EDGAR. About 70 miles. And with regard to the suggestion that has been made here as to the common use of it, the physical conditions are such that a common use can nicely be worked out. While the Los Angeles might be needing the full capacity of the canal for catching the run-off waters, our reservoir sites are such and they are located so that our water could be absolutely shut off, so that Los Angeles would have the privilege of using the entire flow in the canal for certain periods when they need it, and perhaps we can exchange, the difference in the flow further down and allow our flow above to be run through the same passage. That is a matter, I understand, we could work out, perhaps, with the consent of Los Angeles, and save very much in construction.

Mr. RAKER. About how much would that save?

Mr. EDGAR. It would save the cost of construction of 70 miles of ditch; of a similar aqueduct. I do not know what the cost would be.

Mr. RAKER. Would it be in the neighborhood of $5,000,000 to $8,000,000?

Mr. EDGAR. It might cost somewhere in the neighborhood of two or three millions.

The CHAIRMAN. Is the aqueduct already built?

Mr. EDGAR. The aqueduct is already built.

Mr. ELSTON. You might present a very attractive proposition to Los Angeles, if you would give them five or six million dollars for the use of their aqueduct, and they might be willing to take it.

Mr. EDGAR. I can not understand why, from the point of view of Los Angeles, we should not be welcomed and helped by them, and we hope they will undertake later to make some arrangement. And had Mr. Mathews talked as friendly to us when we went to him, or when we invited him to our committee meeting, perhaps we could have arranged this so as not to have had to go to the extent of coming here.

Mr. TAYLOR. Is not that a matter you people have got to work out with the majority of the voters of Los Angeles?

Mr. EDGAR. I think so. All we ask is that we not be shut out with their rights of way so we can not get out.

The CHAIRMAN. What do you mean by paralleling them; how far are you away from them?

Mr. EDGAR. We have not laid out the line, but through this narrow pass from Haiwee, we might have to parallel them some hundreds of feet with the canal.

The CHAIRMAN. I thought you were speaking about paralleling them for 70 miles.

Mr. EDGAR. But that is a long distance away.

The CHAIRMAN. How far away?

Mr. EDGAR. We could get as far as 30 or 40 miles away by going on the opposite side of the valley or east of Owens Lake.

The CHAIRMAN. It has a kind of a misleading effect to say you parallel them when you are that distance away. I do not mean to say you are trying to be misleading.

Mr. EDGAR. In a general sense, going down through the valley, we have to run down through the valley 70 miles, and they are running down through the same valley 70 miles, and that is through a valley three or four miles wide.

Mr. MAYS. Have you filed on any water rights?

Mr. EDGAR. We have filed on the water rights we expect to use.

The CHAIRMAN. How do you expect to finance your project?

Mr. EDGAR. We have hoped we might make connections through the Reclamation Service, and we still hope that can be done. Failing in that, we hope we may be able to make friendly arrangements with the city of Los Angeles. Failing in that, we expect to go it alone.

The CHAIRMAN. On a bonding proposition?

Mr. EDGAR. On a bonding proposition.

Mr. BARBOUR. Under the laws of the State of California?

Mr. EDGAR. Yes, sir.

Mr. SMITH. How many acres are there in your project?

Mr. EDGAR. We hope to irrigate about two hundred to two hundred and fifty thousand acres.

Mr. SMITH. It will cost less than $100 an acre then?

Mr. EDGAR. As we see it, yes.

Mr. BARBOUR. I will state for the benefit of the committee that down in Kern County, California, there are immense tracts of land down there at present used for cattle ranges and some of it not used for much of anything and within the last year or two they have started irrigation projects down there with the idea of getting water on those lands; and if they get water on them they will be a garden spot that will equal Twin Falls, Idaho, or the Imperial Valley, or Walla Walla, Wash. And these projects have received a great deal of popular support and they are acquiring considerable impetus and it looks to me as though they are going through. And it will be a wonderful thing for that county if they do go through and a wonderful thing for that county and particularly Los Angeles, because that country is tributary to Los Angeles.

The CHAIRMAN. What is the elevation of this land you expect to irrigate?

Mr. EDGAR. The elevation of the land we hope to irrigate will be in the neighborhood of 2,000 feet; the elevation of our water supply is above that. We are above 7,000 feet where we are gathering water.

Mr. SMITH. You have an ample supply of water for 200,000 acres?

Mr. EDGAR. We consider it so; but whatever supply we have we propose to use to irrigate, and whatever the cost is we propose to pay. We believe the property is worth a burden of $200 an acre if there has to be such a burden.

The CHAIRMAN. What is the particular language in the bill, Mr. Edgar, to which you object, that you think may jeopardize your interest?

Mr. EDGAR. If it meets with your pleasure, Mr. Fritz will formally give our lawyer's opinion on that and the matters we wish to have put in the record formally.

Mr. SMITH. You have submitted here a formal amendment?

Mr. EDGAR. Yes, sir; we have submitted a formal amendment and we believe you will protect us. How it is changed by Mr. Mathews' wording, I am not prepared to say; but the form in which we present it we believe will protect us.

Mr. RAKER. Mr. Edgar, how far is Inyokern from Los Angeles?

Mr. EDGAR. Inyokern is about 225 miles from Los Angeles.

Mr. RAKER. And there is a direct railroad running from Inyokern to Los Angeles?

Mr. EDGAR. Yes, sir.

Mr. RAKER. What kind or character of production do you secure in that country, just so the committee will know?

Mr. EDGAR. Apples, peaches, all sorts of deciduous fruits, particularly pears. The climatic conditions there are excellent for pear culture and pear culture is one which is very profitable in countries where the pear will thrive, and all sorts of such culture. And also in parts of our valleys we hope to take up the sugar industry—beets, and on the intermediate land we of course expect to take care of alfalfa.

Mr. RAKER. Is it sage brush alfalfa land as well?

Mr. EDGAR. The upper lands have a rich alluvial soil which holds the water well. It produces a heavy desert growth and the moisture stays in like in a sponge. It holds water as a sponge holds water and it is not a leaking soil, as so many soils are. And we believe it is a soil nicely adapted to the work we are undertaking; it is not rocky and it is not in that way what is commonly developed in southern California near Los Angeles, as excellent lands, where they have to move thousands of tons of rocks and so forth; it is there nicely ready for cultivation excepting the want of water.

Mr. MAYS. Is it privately owned?

Mr. EDGAR. It is privately owned perhaps to the extent of nine-tenths. I suppose the railroads may own one-tenth, but I do not know that they own that much.

Mr. RAKER. These are mostly homesteads and desert land claims?

Mr. EDGAR. Homesteads and desert land claims, and lands of people who have bought from the railroads—lands in small acreage holdings.

Mr. TAYLOR. What per cent of your people have title to their lands now?

Mr. EDGAR. Patents?

Mr. TAYLOR. Yes.

Mr. EDGAR. I do not know what that is. They undertook to get patents; a good many have pumped, but pumping is a very uncertain proposition.

Mr. TAYLOR. So very few have patents?

Mr. EDGAR. I think so. They hope by this undertaking to actually perfect the whole plan in such a way that they can get their patents.

Mr. RAKER. What are they raising there the last eight or ten years?

Mr. EDGAR. The valley has not been settled for more than two or three or four years, or four or five years; and they are raising practically nothing from the natural rainfall.

Mr. RAKER. I should have said the last two years.

Mr. EDGAR. Some of our people who have produced wells, they are producing fruits and alfalfa and the early farm crops. The fruits, of course, are newly planted.

Mr. TAYLOR. They can not be blamed for not producing when they do not have water. I was there two years ago and saw large areas of land cleared away.

Mr. SMITH. The railroad runs through there, too?

Mr. EDGAR. The railroad runs through the valley and the aqueduct is just in sight.

Mr. VAILE. What railroad is that?

Mr. EDGAR. It is a branch of the Southern Pacific.

Mr. OSBORNE. It is the Carson and Mojave branch.

The CHAIRMAN. It runs up——

Mr. OSBORNE. It runs through Mojave, up through the Owens River division, and up to Goldfield.

Mr. RAKER. There is a line from Goldfield to Mojave and going on to Carson City.

Mr. OSBORNE. That is the one I am speaking of.

Mr. SMITH. Has any engineer made a report?

Mr. EDGAR. Yes, sir; and Mr. Fritz will offer that and ask to have it made a part of the proceedings.

The CHAIRMAN. Is that all you wish to say?

Mr. EDGAR. I think so.

STATEMENT OF MR. K. K. FRITZ, OF POMONA, CALIF.

The CHAIRMAN. Give your name, residence, and occupation.

Mr. FRITZ. K. K. Fritz; residence, Pomona, Calif. I represent the executive committee elected at the meeting of the landowners.

Mr. Chairman, you probably would like to have this, as I take it from your question of a moment ago—who sent us here and who we represent. The executive committee elected at the meeting of landowners of the proposed Inyo-Kern Mojave irrigation district held at Mojave April 12, 1919, consisting of A. J. Crookshank, Mark White, H. E. Rathbun, W. A. Edgar, and George W. Arper, and a similar executive committee elected by the landowners of the Inyo-Kern locality at a meeting held at Inyo-Kern, April 28, 1919, consisting of John Calaway, F. J. Sanders, John McNeal, G. W. Bowman, and Walter Ulery, met in joint session at the city of Los Angeles May

9, 1919, and by unanimous vote formed a joint executive committee with Mark White as chairman, George W. Arper, secretary, and Walter Ulery, treasurer.

A. J. Crookshank and John Calaway were absent, being unable to attend on account of previous business engagements.

From the information submitted to the executive committee by committees previously appointed, it was satisfactorily determined that ample water for the irrigation of fully 250,000 acres of land in the proposed district was available and could be had if immediate and energetic measures were taken to prevent the completion of a plan by other interests to forever block the way, and bottle up the waters of the Great Mono Lake Basin, through congressional action.

In order to defeat the plan referred to it is necessary to proceed rapidly, and therefore the combined executive committee, by unanimous vote, ordered that a contribution of 10 cents per acre be asked, from the landowners of the proposed irrigation district, payable to the treasurer immediately.

A committee consisting of three experienced and reliable business men will be selected to proceed at once to Washington to attend the next session of Congress in the interests of our project, and to organize a campaign of information to defeat the efforts being made by foreign interests to deny this magnificent area of land of its priceless natural right, the right to the waters of Mono Lake Basin.

Now, there is more to that, but I do not think it would be of help to the committee. It goes on and says to send the waters down from Mono Lake through the several valleys, which it will proceed to do.

(The paper submitted by Mr. Fritz is in full, as follows:)

MOJAVE, CALIF., *May 19, 1919.*

KEMP R. FRITZ, *Pomona, Calif.:*

The executive committee elected at the meeting of landowners of the proposed Inyokern-Mojave irrigation district held at Mojave, April 12, 1919, consisting of A. J. Crookshank, Mark White, H. E. Rathbun, W. A. Edgar and George W. Arper, and a similar executive committee elected by the landowners of the Inyokern locality at a meeting held at Inyokern, April 28, 1919, consisting of John Calaway, F. J. Sanders, John McNeal, G. W. Bowman and Walter Ulery, met in joint session at the city of Los Angeles, May 9, 1919, and by unanimous vote formed a joint executive committee, with Mark White as chairman, George W. Arper, secretary, and Walter Ulery, treasurer.

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From the information submitted to the executive committee, by committees previously appointed, it was satisfactorily determined that ample water for the irrigation of fully 250,000 acres of land in the proposed district was available and could be had if immediate and energetic measures were taken to prevent the completion of a plan by other interests to forever block the way, and bottle up the waters of the Great Mono Lake Basin, through congressional action.

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A committee consisting of three experienced and reliable business men will be selected to proceed at once to Washington to attend the next session of Congress, in the interests of our project and to organize a campaign of information to defeat the efforts being made by foreign interests to deny this magnificient area of land of its priceless natural right, the right to the waters of Mono Lake Basin.

Looking at a bird's-eye view of the Mono Lake watershed one can not help being impressed with the thought that it is there as a part of the divine plan,

that it is there to provide a water supply for the vast mesa of semiarid land just beyond the barriers of the great basin, waiting only for the call of humanity, the hand of labor, the genius of engineers, and the cooperation of capital; these will send the water now going to waste on a mission of wonderful development, generating thousands of horsepower of electricity as it races on its downward flow to the fertile lands below, and thus providing hundreds of homes for intelligent settlers, transforming the parched areas of the so-called desert into beautiful fields of orchard and vine.

Shall we, by indifference, ignorance, or neglect, permit this wonderful source of wealth and the opportunity to accomplish something truly great to be forever lost to the people of Inyo and Kern Counties?

Mr. BARBOUR. Was this committee appointed to come to Washington?

Mr. FRITZ. Yes.

Mr. BARBOUR. Who were the members of it?

Mr. FRITZ. The committee that was appointed was Mr. Edgar and myself.

Mr. TAYLOR. Have you been here ever since this session of Congress started?

Mr. FRITZ. No; but I have been keeping in communication with them through telegrams. One of the gentlemen said I have sent him a hundred telegrams in reference to when this meeting would be, and I do not deny it.

The CHAIRMAN. Are you an attorney?

Mr. FRITZ. No, sir.

Mr. SMITH. What is your business?

Mr. FRITZ. The furniture business. This is our project: Our project is for taking water from the Mono Basin, gathering it in canals before it reaches Mono Lake, and taking it through the south rim of the basin by a tunnel. That will bring the water into a small basin called Adobe Valley. In the lower end of Adobe Valley is Black Lake.

This Black Lake will form a natural reservoir and we will have to build a dam at the lower end about 100 feet high and 700 feet long, which will give us a storage capacity of 1,250,000 acre-feet of water or more. From thence southerly——

The CHAIRMAN. Is that your sole storage?

Mr. FRITZ. That is our sole storage; yes.

Mr. SMITH. You do not need any more than that for irrigating 250,000 acres?

Mr. FRITZ. I do not think so.

The CHAIRMAN. There is no evaporation there?

Mr. FRITZ. It would be greater than that, but that is a reasonable amount of land it will irrigate.

The CHAIRMAN. An acre-foot is a foot deep of water on the acre?

Mr. FRITZ. Yes, sir.

Mr. RAKER. Before you leave that, why not describe to the committee, so they may understand, about the water of Mono Lake. I think they would like to know the amount of water going in there and they want to know what becomes of it. This lake has been lying there all these years.

Mr. FRITZ. If Mr. Edgar will point it out on the map I think you will understand it better.

Mr. EDGAR. May I point it out on the map?

The CHAIRMAN. Yes. Take that cane, Mr. Edgar; it will assist you in pointing it out. In the course of your travels, when you get down to their intake, indicate it.

Mr. EDGAR. This map of Mr. Mathews does not show the country of Mono Lake only slightly, and the general map is, of course, on a much smaller scale and it would be more difficult for you to see it except to get a general notion. Mono Lake is out at this point, about the center of Mono County [indicating], and the basin lying in here, and the dividing line is about here [indicating]. The rim of Mono basin is high enough so that no waters can possibly get out of there from any waters that have accumulated on those mountains in the time of man. Some say at first those waters came over the lowest part of that rim and flowed down here into the valley and on into Owens Lake, and on out from Owens Lake and into the Mojave, and so on, but that is earlier than the history of man, so far as any history we know of. Mono basin, then, is fed by several creeks carrying large quantities of water from the mountain peaks extending from 9,000 feet in elevation to 13,000 feet, and being constantly overlayed with snow during the entire year and receiving a precipitation of about 50 inches, and the run-off runs directly into Mono Lake and wastes into Soda Lake, but we expect to get it, before it gets into this Soda Lake, into our gathering canal and to take it through the divide and into this Adobe Valley, and put it in our main storage basin, in which an unlimited amount of water can be stored. Only a little of it would be wasted in evaporation, and we would save all the water that might be put in there.

The cost of a dam—it would take a very small dam, only 100 feet high and several hundred feet long, and we estimate it will hold in there 1,250,000 acre-feet—more than we will ever hope to store there, provided the flow runs normally.

The CHAIRMAN. How much water do the engineers estimate you can deliver at the lands to be irrigated?

Mr. EDGAR. Our estimate is that they will be able to get down about 400 acre-feet—400 second-feet.

Mr. SMITH. Where are the lands located that you propose to irrigate?

Mr. FRITZ. The lands that we propose to irrigate are in Inyo-Kern Valley. Mr. Edgar's pointer is largely covering it on this map.

Mr. EDGAR. That does not show it.

Mr. FRITZ. It shows the location of where the lands lie. There is Inyo-Kern and the Mojave Valley in back of that.

If you wish to see it on a large map, or a map on a larger scale, I can show it to you here [indicating]. This [indicating] is Mono Lake, and the lands we propose to irrigate are here in the Freemont Valley and a portion of the Inyo-Kern Valley.

Mr. SMITH. Where is Los Angeles?

Mr. EDGAR. Los Angeles is here [indicating].

Mr. SMITH. Do you propose to bring this water into the lake?

Mr. EDGAR. No, sir; around the lake.

Mr. SMITH. That is a salt lake, is it not?

Mr. EDGAR. Yes, sir.

Mr. RAKER. Do you expect to take out water close to the intake of the Los Angeles people?

Mr. EDGAR. We will take water about here [indicating], above the intake of the Los Angeles acqueduct.

Mr. RAKER. How far above?

Mr. EDGAR. Only a short distance, but so that it will not interfere with them.

Mr. RAKER. About how far?

Mr. EDGAR. A mile or two, perhaps.

Mr. TAYLOR. So as not to interfere with them?

Mr. EDGAR. Yes, sir. There must be a common use in there [indicating].

Mr. VAILE. The water that is carried into Mono Lake——

Mr. EDGAR (interposing). That is Mono Basin.

Mr. VAILE. That is water that would not otherwise go into Owens River at all?

Mr. EDGAR. That is true; yes, sir.

Mr. TAYLOR. Have you figured the amount of loss by evaporation?

Mr. EDGAR. Yes, sir; that is a matter that is being worked out by our engineers. The Government engineers have made a similar report, and it will show about the same general results. That report has not been made public yet. You can get that, if you wish to consider it from the Government's viewpoint.

Mr. TAYLOR. That pertains to the amount of the water right, does it not?

Mr. EDGAR. It shows where the water comes from. You can determine from the Government's report that this is absolutely independent of anything Los Angeles is claiming. You will see from the report that it will run through the same general country, and that there are places where there will possibly be some conflict as to rights of way. This Government report, we think, will show the same things that we are contending.

Mr. RAKER. Who made this report?

Mr. EDGAR. Mr. Tait, of the Bureau of Roads and Irrigation. He is in the California division, in Los Angeles.

Mr. RAKER. Where is that report?

Mr. EDGAR. We understood that his superior at Berkeley had been away and had not had time to take it up.

Mr. RAKER. Has the report been completed?

Mr. EDGAR. So far as we know, it has been.

Mr. RAKER. Where does the report go?

Mr. EDGAR. To the Bureau of Roads and Irrigation of the Department of Agriculture.

Mr. RAKER. Did you explain to the committee that the State had approved your water application?

Mr. EDGAR. The State water commission has allowed our filings on certain waters up in here [indicating].

Mr. VAILE. In Mono Basin?

Mr. EDGAR. Yes, sir.

Mr. BARBOUR. What is the jurisdiction of the State water commission?

Mr. EDGAR. I am not a lawyer, and can not say.

Mr. BARBOUR. Do they have control?

Mr. EDGAR. Yes, sir; when they allow or deny, it is hard to get away from it.

The CHAIRMAN. What is the effect of that approval, or how long do they give you within which to commence work?

Mr. EDGAR. I can not tell you, but it is an indefinite period.

The CHAIRMAN. Of course its approval is contingent upon some work to be done subsequently?

Mr. EDGAR. Yes, sir; but they allow considerable liberty in the time of construction, provided good faith is shown.

The CHAIRMAN. If you do not commence work, you lose your water filing?

Mr. EDGAR. Ultimately, but the period is not a short one. However, I am not a lawyer and can not advise you as to that.

The CHAIRMAN. I suppose no one doubts the good faith of these people or their project, and I do not know that it will be necessary to go further into the merits of their project. If you are opposed to the language of the bill, we might hear you on that. We will be glad to hear anything else you may wish to say.

Mr. MAYS. Have you had an analysis made of the waters of Mono Basin?

Mr. EDGAR. No, sir; but they are above suspicion. They are from melted snow. Mono Lake is a soda lake.

Mr. MAYS. You will not touch waters in the basin of the same character as the waters of Owens Lake?

Mr. EDGAR. Yes, sir; they are excellent waters and perhaps superior in that they are directly from the snows and do not come indirectly through seepage. As I understand it, the aqueduct takes considerable water out of the river that has percolated through from the ranches.

Mr. TAYLOR. You think there could not be any opposition from the city of Los Angeles to your turning the water into Owens River?

Mr. EDGAR. I think Mr. Mathews will tell you that there will not.

Mr. SUMMERS. I think it would be well to have the general location shown. Show the Los Angeles aqueduct, where your proposed canal would run, and where the lands are located.

Mr. EDGAR. Mono Lake is away up here [indicating]; there will be no conflict at all as to rights of way from Los Angeles to here [indicating]. We will use the Owens River in connection with them and other people for 35 miles above the aqueduct, and from there down, if satisfactory arrangements could be made, and we could save considerable money in construction in this distance of about 70 miles down to that point.

(Thereupon, the committee took a recess until 2 o'clock p. m.)

AFTER RECESS.

The committee reconvened at 2.30 o'clock p. m.

The CHAIRMAN. Mr. Fritz, you may resume your statement.

STATEMENT OF MR. K. K. FRITZ—Continued.

Mr. FRITZ. I had gotten down to the capacity of the reservoir, I believe, Mr. Chairman. From thence southerly, the Owens River

it will furnish a channel part of the way, and by canal the water will be brought through the Owens River Valley to the Inyokern, Fremont, and Mojave Valleys. And here I would like to state that in the Indian Wells Valley there are 400 entries in that valley and in the Fremont Valley there are 372 entries, and in the Mojave Valley 621 entries.

The CHAIRMAN. What kind of entries; desert-land claims?

Mr. FRITZ. Most of them are homestead entries.

Mr. TAYLOR. What kind of homestead; 160, 320, or 640?

Mr. FRITZ. The majority of them are 160 homestead and the desert entries 320. I do not know the number of homestead entries or the number of desert entries.

Mr. TAYLOR. Is that country classified as enlarged homestead territory?

Mr. FRITZ. Yes; if 160 acres is called an enlarged homestead.

Mr. TAYLOR. All of it?

Mr. FRITZ. Yes, sir

Mr. TAYLOR. So that naturally they would take 320 acres?

Mr. FRITZ. A few of them did not. Under the homestead act they did not take that; there are a few of the entries where they took only 80; the majority of the filings are 160 acres.

Mr. TAYLOR. The old 160?

Mr. FRITZ. The old 160. Yes; that is a homestead entry.

Mr. TAYLOR. Is any of it classified as 640 stock-raising homestead land?

Mr. FRITZ. No, sir. In the Mojave Valley there are 621 entries.

That is a brief sketch of our project. We have had the plan examined by a hydraulic and mining engineer, and the Agriculture Department, the Bureau of Roads and Irrigation, has thought well enough of the project to have it carefully examined by one of its engineers.

Mr. RAKER. The bureau of roads engineers: Did they make that examination for these people or did the department make it?

Mr. FRITZ. They made it at our request.

Mr. RAKER. And that has been completed?

Mr. FRITZ. Yes, sir.

Mr. RAKER. Have you a copy of that report or is it up in the department?

Mr. FRITZ. That report was made by the engineer in Los Angeles and sent to San Francisco some several weeks ago, but on account of the director not being there to examine and O. K. it, it has been hanging there all this time. We had hoped it would be here so that you gentlemen could get it.

The CHAIRMAN. Why did you ask the Bureau of Roads to examine it?

Mr. FRITZ. We did not ask the Bureau of Roads to examine it. It seems that is the department here in Washington that is to examine it.

Mr. SMITH. The Irrigation Bureau in the Roads Department makes an examination of all these projects.

Mr. FRITZ. I would like this committee, when they send that memorandum here, make it a part of these proceedings.

Mr. TAYLOR. Why did you not have the Reclamation Service make the examination? They are the proper people to go to about irrigation projects, that is, if the Government is to have anything to do with it.

The CHAIRMAN. This bureau used to make examinations for the Capital Issues Committee.

Mr. SMITH. They study the water supply, underground and surface, in the Department of Agriculture, in this particular division.

Mr. MAYS. Do you figure you have enough water to irrigate one quarter of a million acres?

Mr. FRITZ. They estimate 250,000 acres.

Mr. SMITH. If you have 100 acres for each unit, it would be 300,000?

Mr. FRITZ. In the lower lands, some of that water can be pumped back.

The CHAIRMAN. What is your water use out there? How much water do you need to put on the land?

Mr. FRITZ. I think one and a half acre-feet, as I will show you a little later.

The CHAIRMAN. How much water does it take to irrigate the land there?

Mr. FRITZ. One and half acre-feet.

Mr. MAYS. The former witness stated you have about 450 second-feet, and you can hardly expect to irrigate one quarter of a million acres with that much water.

Mr. FRITZ. All of the lower lands will be irrigated from pumping. On account of the drainage from the upper lands, on the lower lands it can be pumped out and put back on the intermediate land.

The CHAIRMAN. And used over again?

Mr. FRITZ. And used over again, yes.

Mr. MAYS. You have a storage capacity of one million and a quarter?

Mr. FRITZ. Yes.

Mr. MAYS. Four hundred and fifty second-feet would not be over one-fifth of that much water, or one-quarter.

Mr. FRITZ. Yes; but our reservoir will hold much more water.

Mr. MAYS. However, I do not know that that is material.

Mr. FRITZ. I have not studied that point of it out; that is a question I can not answer without going into some figuring. I think your estimate is considerably too low.

As to our position with regard to the Los Angeles bill, we have no objection at all to the city being granted any rights it may need for the welfare of its people. What we do object to is the city being given what amounts to an option on a tremendous area, in such a manner that our projects would be blanketed. We do not believe that when any city or body of people comes before Congress for certain legislation it should be given exclusive rights to use privileges that should belong to anyone who can use them. We do not believe that Congress should give Los Angeles such exclusive rights of way as would allow the city to later keep us from constructing our canals or water conduits over or through the Owens River Valley, even if it happens that we should have to cross the Los Angeles aqueduct with a flume. Our objection in that connection is that it gives them

until 1922, under this bill, to file their maps. Then it gives them five years for construction. Then, in addition to that, it gives the Secretary of the Interior an option to grant them more time, and the mojority of us would be pretty old men by the time we got the privilege for construction or even of a right of way.

Under the original act of 1906, we know the city has driven some hard bargains with people who had to pass over the city's lands, even with a power transmission line. If the city would impose hard conditions on such a line crossing the city's right of way, we can imagine what would probably happen if we tried to cross the city aqueduct with a flume.

If this bill passes as it stands now we could not possibly file maps for our project until after the city could file its maps, and in that event we would probably be at the mercy of the city. The reason I make that statement is that Mr. Sanders was asked by the committee and he went to Mr. Mathews and tried to make some compromises in regard to our being given permission to come through those narrow valleys with our water line or with our open ditch, and Mr. Mathews's answer to him was an absolute refusal.

The CAIRMAN. Will you mention those narrow valleys, those points where there is likely to be a conflict in your opinion?

Mr. FRITZ. It will up in along the Haiwee Reservoir.

The CHAIRMAN. How do you spell that?

Mr. MATHEWS. H-a-i-w-e-e.

The CHAIRMAN. And what is the other point?

Mr. FRITZ. That would have to be determined by the engineer's survey of the aqueduct or of the water conduit.

The CHAIRMAN. Have you not any idea where the narrow points are without a survey?

Mr. ELSTON. Mr. Edgar mentioned them this morning.

Mr. MAYS. Adobe Canyon, was it?

Mr. EDGAR. At the Rose Valley, lower down, also Haiwee. The one close point is at Haiwee Pass and the other is some few miles below the Rose Valley reservoir, and the aqueduct is located on the side wall of the valley at that point, so that we think perhaps there could be no conflict there excepting, perhaps, it might possibly conflict with a power line. We do not know where they are going to put the power line, and if it follows close to the aqueduct line, possibly there would not be any conflict there. But this power line being unlocated, we do not know what they are going to do.

Mr. BARBOUR. If the aqueduct should be built on the side of the hill, could there be any other power line?

Mr. EDGAR. We think there could. We do not know of any reason why there could not be. We only seek to provide that they shall not get such a right of way that we would be precluded.

Mr. RAKER. The aqueducts along there are now constructed, but the power lines have not yet been constructed?

Mr. EDGAR. And they have not located part of it.

Mr. RAKER. And there Los Angeles, in this bill, is desiring to secure the right of way for power line and a separate right of way for a power line down along the aqueduct.

Mr. MATHEWS. That is correct.

Mr. FRITZ. Yes.

The CHAIRMAN. On the aqueduct right of way?

Mr. RAKER. No; outside the aqueduct right of way and ditch right of way.

Mr. MATHEWS. Outside?

Mr. FRITZ. The reason I hesitate in saying exactly any specific point is this, that the engineer for the Los Angeles aqueduct surveyed the aqueduct out and it was constructed. If our engineers survey out our lines for the ditch for the water to be brought down, they may survey very close to the aqueduct or close to what was evidently surveyed to be the possible location for it. Evidently, our ditch may come or it may not come very close to it a great deal of the way.

The CHAIRMAN. You would be willing to give the Secretary of the Interior the right to adjust any differences, giving the city of Los Angeles the preference?

Mr. FRITZ. Certainly; yes, sir.

Mr. TAYLOR. In the ordinary prudence you would, of course, build far enough away so that you would not be likely to break and destroy the aqueduct of the city?

Mr. FRITZ. We would.

Mr. TAYLOR. You would want to keep them separated as much as you could, and any way far enough for safety?

Mr. FRITZ. Yes. We believe the city ought to have the right to get water that it needs for its inhabitants. We do not have any objection to that, but we do think if the city of Los Angeles, as I understand, only used a very small percentage of the water for real domestic purposes, and that on the west side of Los Angeles, I have understood, the majority of their water is being used to irrigate private lands in San Fernando Valley; that this land was brought into the city of Los Angeles after the construction of the aqueduct and bought by private interests prior to the construction of the aqueduct. I also understand that the city of San Fernando is surrounded by the city of Los Angeles, and the city of San Fernando is a separate municipality and have their own pumping plants, so that the city of San Fernando is not supplied with water from Los Angeles aqueduct. That is my understanding.

Mr. RAKER. What do you mean by that; that San Fernando is part of Los Angeles?

Mr. FRITZ. Yes; the valley.

Mr. RAKER. And the city of San Fernando in the valley there is a separate, independent municipality?

Mr. FRITZ. Yes, sir.

Mr. SMITH. It was at one time, but it is now in the city limits.

Mr. RAKER. No; I say now.

Mr. FRITZ. Now.

Mr. RAKER. Is that clear?

Mr. OSBORNE. It never has come into the city.

Mr. SMITH. Then it is not within the corporate limits of the city of Los Angeles?

Mr. OSBORNE. No; but the city surrounds it.

Mr. FRITZ. The city of Los Angeles surrounds the city of San Fernando but it is nearly 30 miles from Los Angeles proper.

Mr. RAKER. How much territory are they taking in this San Fernando valley?

Mr. FRITZ. I understand 17,500 acres. I understand that is approximately the amount of acreage, but I can not say accurately.

Mr. RAKER. Have you a map of that section?

Mr. FRITZ. I have a small map of California and you can see that, on it.

Mr. MAYS. They kept within the State of California?

Mr. FRITZ. We hope to include the valley of Inyokern.

Mr. RAKER. What was the difference in the price of land before they incorporated, this irrigation land, and after they incorporated and became a part of the city so that they could get the city water; do you know?

Mr. FRITZ. I have understood that the purchase was made for some thirty-odd dollars an acre and it sold for something near $300 an acre.

Mr. TAYLOR. I guess we will all admit that—

Little drops of water
On little grains of sand,
Make a h——l of a difference
In the price of land.

[Laughter.]

Mr. FRITZ. We have no objections to the city's getting all the power it wants, providing it does not cut the small consumers off of a power supply. I want to make a statement in regard to the question raised as to our amendment to this bill as offered by myself and Mr. Sanders by letter. There has been a change in it, a change by adding the power privileges. Our first amendment did not specify any power privileges. Now it does—simply because after our engineer made a careful study of the proposition, he has shown us where his estimate of the value of the power that will be developed on this irrigation project would be $15,000,000 worth of power.

The CHAIRMAN. What do you mean by your first amendment?

Mr. FRITZ. I first submitted one, the one Mr. Mathews has referred to and it did not state in there—also the one Mr. Sanders sent you does not make any provision in that in regard to the transmission of power.

The CHAIRMAN. Is this what you call your first amendment (handing paper to witness)?

Mr. FRITZ. I suppose that was.

The CHAIRMAN. This is the one that came along, I suppose, with your letter of October 23?

Mr. FRITZ. Yes; that is the one.

The CHAIRMAN. That is the first amendment?

Mr. FRITZ. Yes, sir.

The CHAIRMAN. Where is your other amendment?

Mr. FRITZ. I gave it to you just the other day. I can give you a copy of it right now.

The CHAIRMAN. Did it go in the record?

Mr. FRITZ. Yes; Congressman Kettner put it in. We do not think that Congress ought to give the city the exclusive right of way and enable it to keep others off of the public domain with proper projects. We are preparing and submitting a proposed amendment that will simply make it plain that the rights of the city

are not to be exclusive. Now, that amendment we have just submitted does not make it exclusive.

The CHAIRMAN. Have you another copy of it here?

Mr. FRITZ. Yes.

The CHAIRMAN. Give one copy to the reporter now, so he can put it in the hearings at this point.

(The suggested amendment supplied by Mr. Fritz is as follows:)

SUGGESTED AMENDMENT TO H. R. 406.

Add a new section reading substantially as follows:

SEC. 9. The rights of way hereby granted to the city of Los Angeles are not exclusive and nothing in this act contained shall be construed as preventing the granting of rights of way for pipes, pipe lines, canals, ditches, flumes, tunnels, or reservoirs for the conveyance, delivery, or storage of water for irrigation, mining, or domestic, or power purposes, or for the generation of electric power, including rights of way for the construction of power plants, towers, and transmission lines for the generation and delivery of electricity, under existing laws of California and the United States or that may be enacted hereafter, to any person, as ociation, or corporation over, through, upon, or across the lands affected hereby.

Mr. TAYLOR. Do you object to the form of the amendment Mr. Mathews suggested this morning and, if so, why?

Mr. FRITZ. I have not studied it. I just talked to him a few moment ago and I have not studied it, so that I could not answer that question.

Mr. MATHEWS. I suggest we refer it to the legal department of the Interior Department, and if they think it is all right we can go by their judgment; if not, we can change it.

The CHAIRMAN. Will you do that?

Mr. FRITZ. Yes.

Mr. MAYS. Do you see any objection to the amendment now offered?

Mr. MATHEWS. The amendment they offered first?

Mr. FRITZ. This one I have just referred to of Congressman Kettner's reading.

Mr. MATHEWS. Yes; we see objection to that. I will call your attention to the objection later on.

Mr. FRITZ. A careful study of the entire question has made it plain that the only source from which water can be secured to irrigate the lands in which we are interested is from the Mono Lake Basin, lying north of the Owens River Basin. It may be asked whether the waters of Mono Basin could be applied more profitably to irrigation of other lands; but nature has answered that question by erecting such barriers as make it impossible to lead the water in any direction from Mono Basin, except southerly, to lands which may be made productive by use of the water. That would be Inyo-kern, Freemont, and Mojave valleys.

Mr. BARBOUR. Is there enough water up there to irrigate the lands of the Mono Valley—Mono Basin? There are some lands to be irrigated up there, are there not?

Mr. FRITZ. There is a very small percentage of land up there to be irrigated. I do not know just what the acreage would be, but I should not think it would be of very much value, simply because I have been informed on several occasions they only have a three-

months' summer up there and they have to make provision for nine months' supplies, the people that live in that country.

Mr. BARBOUR. Your rights would not interfere with theirs?

Mr. FRITZ. Our rights would not interfere with theirs in the least.

Mr. RAKER. As a matter of fact, the water that is used for irrigation in Mono Basin could not be taken up by you people anyhow; I mean it could not be reached by your ditch. Their land lies on the east side of the lake and they are getting the water now from the Mallard section of the country and bringing it down on the east side.

Mr. FRITZ. We would not interfere with the little water used up there.

Mr. RAKER. And your proposed plan is to get the water on the west side of Mono Lake?

Mr. FRITZ. It might interfere with a few little interests up there. I would not want to say it did not interfere entirely with anybody.

The water supply available for pumping in our valleys is so limited that it has already been found that the drilling of additional wells simply results in lowering the water in wells already being pumped. Pumping for irrigation in this district is an expensive plan of operation at the best, owing to the great depth of the wells, and the drilling of additional wells in this vicinity would simply add to that expense by lessening the flow in all the wells. I will say I have 160 acres of land in that Inyokern Valley and have drilled two wells in the neighborhood of nearly 300 feet in depth, and in both of them I got dry wells. I have complied with all the Government requests in regard to any additional expense, and whatever they asked put on the land I have put on, and I have gone to many dollars of other expense; and I know several other gentlemen up there who have spent all the way from $5,000 to $10,000 apiece on lands for improvements and they have not as yet secured patents, simply because of being limited in the supply of water in their wells. So that everything goes to point we must bring in water from the outside in order to assist us in the development.

With water available, the greater portion of the lands in these valleys is very productive. The land is too high to allow the growing of oranges and other citrus fruits, as the winters are too cold; but these valleys are well-suited to the growing of what may be termed fruits of the temperate zone, such as pears, apples, peaches, cherries, and berries. Other districts in southern California similarly situated have been proven to possess great value for the raising of such fruits. Alfalfa and vegetables can also be grown on the intermediate lands. It is contemplated that the lower portions of these valleys will become important factors in the sugar-beet industry. There are already in these valleys several orchards, irrigated from wells, and while they are still young, they are thriving.

Numerous entries under the homestead law and desert-land act have been made in these valleys, and a considerable number of patents have issued, but recently the United States Land Office has declined to allow desert-land entries, because it has been found impracticable to secure the necessary water supply under present conditions.

In Fremont Valley, which lies within a railroad grant, the alternate sections were granted to the railroad company, but they have been mostly sold and are now owned by private individuals.

If these valleys are ever to be irrigated, the water supply must be found at a distance, and the only supply which is found to be available is that lying to the north.

Owing to its location with respect to the mountain ranges, some of the peaks surrounding the basin being 13,000 feet high, Mono Basin has a very unusually heavy precipitation. The snows lie deep upon the mountain sides and melt gradually, furnishing a comparatively constant water supply to several streams which flow into Mono Lake. There is no flood water. The lake has no outlet, and the water is therefore brackish, and the water of the lake itself is useless; but, as previously stated, we will take the water from the streams before they reach the lake.

Careful engineering examination shows that this basin has about 160 square miles of watershed, drained by several creeks. Some water is used in Mono Basin for irrigation, but only to a very limited extent, almost entirely for grazing lands, and that for a comparatively short season, there being about seven months of winter. The cattle are driven to lower lands for grazing many months of the year.

The Mono Basin does not fall within this scope of operations of the city of Los Angeles. The city makes no claim to any water north of the Owens River valley.

The waters of the Mono Basin are not required in the Owens River valley for irrigation, that valley being already well supplied. In fact, some of the bottom lands of that valley are swamp in character and require drainage in order to be available for farming.

Reports of irrigation engineers show that for orchard purposes in this vicinity from 1 to 1½ acre-feet of water per annum will be required. To raise alfalfa would take about twice as much water. It is estimated by our engineers that the water which could be made available from the Mono Basin and put to actual irrigation in Inyo-Kern and Fremont Valleys would be sufficient to irrigate over 200,000 acres.

The Mono Basin has an elevation of over 6,000 feet, and except for the rim of the basin, that will have to be tunneled, there will be no insurmountable difficulty in the way of conducting the water southward through the Owens River valley.

It may be suggested by the committee that we will need a canal that will parallel the city's aqueduct for many miles, and that is correct. Of course, unless we could arrange to use the city's aqueduct, there is no way we can conduct the water to our lands except by canal.

Mr. RAKER. This bill provides for a 250-foot right of way?

Mr. FRITZ. Yes, sir.

Mr. RAKER. If you construct your canal on this strip of land 250 feet wide, what is the objection to putting your transmission lines on the same right of way?

Mr. FRITZ. We can do it, providing for some exceptions.

Mr. RAKER. Is there any physical obstacle in the way? Is there not plenty of land on each side of the aqueduct to put the transmission lines?

Mr. FRITZ. You mean for all lines?

Mr. RAKER. I am talking about yours now.

Mr. FRITZ. I would not think there would be any question about the transmission line at all. The only question would be the granting of a privilege to come through.

Mr. RAKER. I am talking now about any other restrictions or limitations. If you have a right of way of 250 feet for your canal, you could use the same right of way to put your transmission lines, one on each side of the outer edge of the right of way.

Mr. FRITZ. Yes, sir.

Mr. RAKER. The same as the railroad companies put their telephone lines along on the outside of their rights of way.

Mr. FRITZ. Yes.

Mr. MAYS. How do you propose to use the power, pumping water?

Mr. FRITZ. The development of the power?

Mr. MAYS. Yes. How do you propose——

Mr. FRITZ. By the drop in the water.

Mr. MAYS. I understand, you develop it from the water. But what do you do with the power after you develop it?

Mr. FRITZ. It will be used for—of course we will use a great deal of power for development, and sell the rest.

Mr. MAYS. Sell the rest?

Mr. FRITZ. Yes, sir.

Mr. ELSTON. Mr. Fritz, so far as the practical propostion facing you now is concerned, do you see daylight? It appears to me that it is going to be rather easy for you to make some kind of frame-up and propose an amendment with Mr. Mathews, and with the assistance of the department, that might save a good deal of further argument.

Mr. FRITZ. It seems to me that way now.

Mr. ELSTON. I think it would be just as well to let Mr. Fritz go with his preliminary explanation, with anything that he wants to put into the record, with whatever addition he wants to make, and let him meet with Mr. Mathews and report.

Mr. TAYLOR. I think they can get together and come back in the morning.

Mr. ELSTON. He can expand his statement in the record. Let him expand it in the record for record purposes.

Mr. RAKER. Now that is not it. We have heard everybody else.

The CHAIRMAN. I want to see if he can object to this amendment. After the word "preventing" in line 3 of your amendment insert "under the supervision of the Secretary of the Interior." So your amendment would read (reading):

The rights of way hereby granted to the city of Los Angeles are not exclusive, and nothing in this act contained shall be construed as preventing, under the supervision of the Secretary of the Interior, the granting of rights of way, and so on.

Mr. TAYLOR. Mr. Chairman, permit me to say that I broke in once or twice before in this hearing to protect another witness that was not a lawyer from being required to answer purely legal questions; and I feel it would be hardly right to ask this witness to concede or agree right off hand to this or any particular language that may very greatly affect the rights of thousands of people.

The CHAIRMAN. I do not want him to agree to the language offhand.

Mr. FRITZ. I can see no objection to that personally.

Mr. TAYLOR. I think what they want to do is to confer with Mr. Finney. He will take care of both of them fairly?

Mr. ELSTON. Would it be possible to have the South Sierra people considered in that same amendment, and compose this whole thing right in one amendment?

The CHAIRMAN. Could you not all go down to see Mr. Finney and see if you could not come to some agreement?

Mr. CONSAUL. That is perfectly agreeable to the South Sierra interests.

Mr. ELSTON. Does your protest concern the possible rights that you want to get to enable you to get across the proposed right of way of the city of Los Angeles.

Mr. CONSAUL. That is one phase of it; yes, sir.

Mr. ELSTON. So far as that phase of it is concerned you would be interested in that proposed draft. To that extent you are in the same situation as these Inyo-Kern people.

Mr. TAYLOR. I merely make the suggestion to Mr. Elston. Of course, there is no necessity for legislation unless there is some one affected by it, and Mr. Fritz may not desire to read all of his statement, but he ought to, at least, be permitted to go to the extent of developing the main features of his proposition, and then submit the balance of it to the committee, so that he may get it before the committee.

Mr. ELSTON. I am just suggesting that it might be a good idea while he has got things going well, it might be well to stop and put anything else that he has in the record. He had better take advantage of these agreeable expressions while they are outstanding. Otherwise he might develop something in here that might change our minds.

Mr. TAYLOR. Whether he has a good case or no case we ought to know it, if we are going to decide it.

Mr. ELSTON. If we want something else we can call on him for it.

The CHAIRMAN. Have you something to insert in the record. We will have to go to the House shortly.

Mr. FRITZ. Only our proposition and our engineer's report.

The CHAIRMAN. Without objection that can be put in. That is what you have read.

Mr. FRITZ. Yes, sir.

(The report follows:)

OUTLINE OF PROPOSED IRRIGATION SYSTEM FOR THE INYO-KERN-MOJAVE DISTRICT, KERN COUNTY, CALIF.

The valleys of California and their tributary streams are divided into two great groups—Pacific Coast drainage and Great Basin drainage. Through the central portion of the State this division is along the crest line of the Sierra Navada, the streams on the west side of which find their way into the Pacific Ocean and those on the East into a series of independent basins separated by divides of varying heights. Beginning at Mojave and extending northward along the eastern foot of the Sierra Nevada, these basins are Fremont Valley, Inyo-Kern valley, Owens River valley, Mono Lake Basin and Walker River Basin.

The Sierra Nevada along the eastern side of the Fremont Valley has a very light rainfall, and except after heavy rainstorms, and for a short time in the spring there is little surface run-off. It is not sufficient for any irrigation, but at times forms a small lake at the lowest point in the valley. The underflow from these streams forms an underground lake and appears as springs along the edge of the dry surface lake. Some wells with a small artesian flow have been drilled in the lower portion of the valley and a limited area can be cultivated by pumping from these wells. Under most of the land in the valley

the underground water is too deep to allow of economical pumping, and the supply is too small for more than a fraction of available area.

The conditions in the Inyo-Kern valley are similar through the area within reasonable pumping lift and the quantity of the supply is considerably greater. Both valleys contain large areas of agricultural land, and there is a similar large area around Mojave just south of the Fremont valley, and separated from it by a low rolling divide. Climatic conditions in these districts are suitable for deciduous fruit and similar crops.

The conditions in the upper basins are quite different. Here the large perennial streams from the eastern slope of the Sierra Nevada supply enough water to equal the evaporation on large lakes which in time have been strongly alkaline. For many years the greater part of the area in the Owens River valley has been irrigated by means of canals and ditches from the river and tributary streams. Even with this the excess flow and return water was sufficient to maintain the level of Owens Lake. During the last few years much of the excess flow is being taken through the Los Angeles Aqueduct for the irrigation of the San Fernando valley and the coast drainage near Los Angeles.

Mono Lake and Walker River basins are similar to the Owens River with perennial streams large enough to supply the evaporation from Mono and Walker Lakes. Walker River is extensively used for irrigation and this use can be extended to cover available lands in California and Nevada. The area of the level land in the Mono Lake drainage is comparatively small and is all at elevations ranging from 6,400 to 7,000 feet. At this elevation the winters are very severe and the growing season in the summer very short. It is not practical to farm this land, and the only use that can be made of the water within its drainage area is for flooding summer grazing lands.

These different basins are at different elevations rising as they extend northward, the dry lake in Fremont Valley being at an elevation of 1,850 feet, that in Inyo-Kern valley 2,150, Owens Lake 3,570, Mono Lake 6,415. While each is an inclosed basin it is possible by high-line ditch and tunnel to carry the water from the higher to lower basins.

In general, the condition in these basins is as follows: Mono Lake drainage has a very large amount of water of which very little use can be made, and which can only be made of economical value if taken to the lower basins. Owens River drainage contains more water than there is land to use it on. Much of the excess is now being taken past the Inyo-Kern and Fremont valleys and through the Coast Range to the San Fernando valley. Inyo-Kern valley has only sufficient underflow to irrigate by pumping a small portion of its very fine agricultural lands. The underground water can be used in but a very small portion of Fremont Valley, and the supply is very limited. The Mojave district is practically without water.

The project under construction contemplates taking practically all the water from the Mono Lake drainage through the divide into the Owens River drainage, adding to it water in that drainage not now being used and carrying the combined flow over into the Inyo-Kern Valley drainage, and then taking a portion of the water so secured past the Inyo-Kern Valley to the Fremont Valley and Mojave District. The area which could be irrigated in this way contains some of the finest lands in the State of California, and the acreage is only limited by the amount of water which can be secured.

This will be done in the following manner: A combined flume and canal will be constructed along the west and south sides of Mono Lake at an elevation of about 7,000 feet. This will cross and pick up the different mountain streams now entering the lake and containing practically the entire flow into it. The combined flow will be carried to a narrow point in the divide between the Mono Lake and Owens River drainage. This canal system will be about 45 miles in length and will increase in size as the different creeks are crossed. The Southern Sierra Power Co. is completing the construction of dams at a number of high mountain lakes on these streams so as to hold back the peak flow which usually occurs in June and increases the low water flow in the fall. With this regulation it will be possible to divert practically the entire flow of the streams into the gathering canal. From the end of the canal a tunnel between five and six miles long will deliver the water into Dexter Creek. Dexter Creek flows into Adobe Valley of which Black Lake occupies the lower point. At some time in the past the water from Black Lake has flowed into the Owens River, but at present there is not sufficient inflow, and it forms a small independent secondary basin or sink. A small dam at the outlet will form a very large storage reservoir in which the water

from years of large precipitation can be held back and equalize for the years of lesser yield. Below Black Lake the regulated flow will follow the old natural channel to a point on the Owens River near Laws, a distance of about 30 miles, and for the next section the natural bed of Owens River will be used.

From a point on the Owens River in the vicinity of the intake of the Los Angeles aqueduct, a similar and parallel canal will take the water over the Haiwee Summit at the south end of Owens Lake, and into the Inyo-Kern Valley drainage. A high line canal around Inyo-Kern Valley will carry the proper proportion of the water to a point where a short tunnel through a narrow place in the divide will deliver it to the Fremont Valley drainage. This point will be at sufficient elevation for a canal to carry the water over the low summit and into the Mojave District.

Following the course of the water, it will be 290 miles from the town of Mojave to the head of the gathering canal at Mill Creek and 240 miles from the town of Inyokern. Of this, 25 miles will be in the bed of Owens River and 23 miles in Dexter Creek and Black Lake Reservoir where no construction will be required. Thirty miles will be in the old channel between Black Lake and Owens River, a portion only of which will probably have to be lined to prevent excessive seepage loss. Twenty-five miles of the upper end of the gathering canal will be of comparatively small size.

The crest of the Sierra Nevada, west of Mono Lake, varies in elevation from 10,000 to 13,000 feet, and the snowfall is very heavy along this crest, while the lower ranges surrounding the lake on the other sides have comparatively light precipitation. This high mountain drainage area is nearly as large as that of the Owen River above Bishop. The drainoge from it is practically all gathered into six main creeks having the following drainage areas:

	Square miles.
Mill Creek	23.0
Leevining Creek	41.6
Gibbs Canyon	6.0
Walker Creek	10.8
Parker Creek	15.6
Rush Creek	60.0
Total	157.0

No systematic measurements have ever been made of the flow of some of these creeks, but the Forest Rangers kept gauge heights on Leevining Creek in 1911, 1913, and 1914, and on Rush Creek in 1911 and 1913. The officials of the Geological Surveys have made gaugings at these points and have prepared rating curves for these gauge heights. The details of the daily flow for these years are shown on the accompanying diagram. The gauging station on Leevining Creek is at the foot of the main range, about 3½ miles above Mono Lake and near where the proposed diversion would be located. The gauging station on Rush Creek is on the shore of Mono Lake. Both Walker and Parker Creeks join Rush Creek above this point, but there were also considerable irrigation diversions above it on all three, and some seepage loss on the gravel cone between the gauging station and the points of the proposed diversion. The only record found showing this loss was on July 22, 1911. On that date measurements of Walker, Parker, Rush and a few small tributary streams amounted to 717 second-feet at the mouth of the canyons. On the same date the gauge height at the gauging station showed 530 second-feet, a loss of 187 second-feet, or one-quarter of the flow at the points of proposed diversion.

For the purpose of determining the relation of the discharge during the years in question to that of a long-time average there is available a record of Kings River which has been kept since 1896. Kings River drains the western slope of the Sierra Nevada opposite Mono Lake, and the annual fluctuations in discharge should be directly comparable. On Kings River the discharge in 1911 was well above the average, but not as great as in 1901, 1906, and 1916. In 1913 the discharge was the least with the exception of 1898, which is known throughout the State as the least of which there is any definite record. An average of the discharge during 1911 and 1913 is a little less than the 20-year average. The measured discharge of Leevining Creek in 1911 was 78,420 acre-feet, or 1,880 acre-feet per square mile of drainage, and of Rush Creek 191,190 acre-feet, or 2,213 acre-feet per square mile. Similarly in 1913 Leevining Creek showed 930 acre-feet per square mile, and Rush Creek 580. Scattered measurements on the other streams and a consideration of the

topography would indicate that the run-off over the entire 157 square miles of mountain drainage area would be about the same. Taking into consideration the relation of 1911 and 1913 to the long-time average and the losses above the point of measurement on Rush Creek, an average of 1,500 acre-feet per square mile of drainage, or an average total of 225,500 acre-feet per annum would seem to be a conservative estimate. This equals a continuous flow of 310 second-feet, or a flow during a 200-day irrigation period of 514 second-feet.

Dexter Creek is a perennial stream of considerable size. There are no records of any measurements on it, but by observation it has a flow of from 400 to 500 inches in periods of low water and several thousand during high water. With the addition of the underflow and intermittent surface flow of North, McGee, and Black Canyons it supplies the water which maintains Black Lake, several other shallow ponds in Adobe Valley, and a large area of grass lands. It is this area of pond and grass land which will be used in the Black Lake Reservoir.

The amount of water lost on it by evaporation, transpiration, and plant growth is as great or greater than the evaporation loss from a similar area of open-water surface. Dexter Creek will be a considerable addition to the total water supply, but if figured as all lost by evaporation, the total flow from the Mono Lake drainage can be figured as available for irrigation without considering evaporation losses in the storage reservoir.

There is a possibility of securing a limited additional supply from the Owens River drainage. Satisfactory arrangements would have to be made with the local water users in order to secure this, and it is a matter which will require careful negotiations. Any water secured in this way can be taken into the main supply line with but little additional expense and will result in enlarging the acreage which can be served to that extent.

It has already been stated that both Inyo-Kern and Fremont Valleys are independent basins. All water entering their drainage area eventually finds its way to the underground lake and is lost by evaporation on the intermittent lakes and grass lands in the sinks. If outside water is brought in for irrigation the return water from it will cause a rise in the water level and make drainage of the lower lands necessary. This could only be done by pumping the water back on to lands of intermediate elevation. Soil and climatic conditions are suitable for handling in this way. The drained bottom lands would be suitable for beets and similar crops; intermediate lands for alfalfa, and the upper lands for deciduous fruits.

Investigations under similar conditions have shown that about 1.75 feet in depth of water is required for matured deciduous fruit trees. The average rainfall at Mojave is 4.86 inches, or 0.4 of a foot, and it is about the same for the whole area under consideration. This leaves 1.35 feet to be supplied by irrigation. If 300,000 acre-feet per annum can be secured from Mono Lake and Owens River districts it would at this rate irrigate 220,000 acres. About 30 per cent of this water, or 90,000 acre-feet, would be returned to the underground water supply and be largely recovered by drainage of the bottom lands or intercepted by pumping. Under similar climatic conditions alfalfa requires about three acre-feet per annum and there would be available water for an additional 30,000 acres of alfalfa on lands of intermediate elevation. In order to secure this water it would be necessary to drain about 20,000 acres of bottom lands. This makes a total of 270,000 acres which could be included in the project.

In this estimate no account is taken of the return waters from the intermediate or alfalfa lands or of the existing underground supply, neither is any allowance made for the land occupied by buildings, roads, or barnyards, and there is always some lands included in any large project which are not being cultivated. On the other hand no allowance is made for evaporation on the drained bottom lands, or seepage and evaporation losses in the canals and distributing system.

Small equalizing reservoirs will be required near the Inyo-Kern and Fremont Valleys to allow for excessive draft during the short hot dry spells which occur during the midsummer months and to regulate the difference between day and night use. The location of these is a matter which will require careful detailed study.

The project above outlined calls for dropping the water from an elevation of about 7,000 feet at Mono Lake to 2,000 feet in the Fremont Valley. There will be available power sites along the line of the supply system where a large amount of electric power can be generated. Above the Owens River the

total fall is nearly 3,000 feet and 2,000 of this can be concentrated in three feasible power sites.

The upper one of these is located on North Canyon above Adobe Valley and just below the main tunnel. If the tunnel be located at elevation 7,000 feet a flow line beginning at the portal and extending along the side hill for 18,000 feet would give a fall of 400 feet into the bed of the canyon with 2,000 feet of pressure pipe. By taking a longer route for the pressure line and reaching the bed of the canyon at a lower point 450 feet of fall can be secured with 5,000 feet of pressure pipe.

The exact elevation of the main tunnel is a matter which will require careful study. Grant Lake on Rush Creek affords an ideal site for a reservoir in which to regulate the flow through the lower end of the gathering canal. The elevation of the present lake surface is 7,060 feet. The nearer elevation 7,000 feet the tunnel is located the more complete this regulation can be made and the size and capacity of the canal can be reduced to a minimum. Also the lower the elevation the shorter the canal will be and better conditions for construction will be found. On the other hand the higher the elevation of the canal the shorter the tunnel will be and a greater power drop will be secured. The exact elevation of the tunnel will have to be determined by balancing cost of canal and value of regulation against cost of tunnel and value of power.

The second power site is just below the outlet of the Black Lake Reservoir at the town of Benton. There are also two locations for a power house here. A grade line of 4,000 feet and a pressure line of 4,500 feet will give 750 feet fall, and a grade line of 6,000 feet and a pressure line of 10,000 feet will give 925 feet fall.

Beginning a little below Benton Station on the N. C. R. R. the old natural channel is in a rocky canyon having a grade of about 100 feet to the mile. Instead of using the natural channel a grade line canal can be constructed along the side of the valley to the foot of the White Mountains. This canal would be about 14 miles long and offers no difficulties in construction. From the end of the canal 10,000 feet of pressure pipe will give 800 feet of fall to the old natural channel. This forms the third power site.

The greatest use of water in the Inyo-Kern and Fremont Valleys will be in midsummer. Experiments in the Inyo-Kern Valley with pumped water have shown that with deciduous fruits good results can be secured with winter irrigation and ground storage of the water. Some flow will be required in the canals at all times but the flow from May to September will have to be much greater than during the balance of the year. The regulation through the reservoirs to secure this flow is not the same as the regulation desired for power development. The upper of the three power sites described being above the Black Lake Reservoir, can have the flow regulated for power purposes through the Grant Lake Reservoir without affecting the irrigation flow below the Black Lake Reservoir. A short distance below the lower of the three power sites and easily accessible from it the water users in the Owens River Valley have a reservoir site at Fish Slough. If arrangements can be made with the canal companies for the joint construction and use of this reservoir it will be possible to regulate the difference between the draft required for irrigation and that for power purposes with the maximum efficiency for both. In this case the Black Lake Reservoir would be used mainly for overyear storage. Its large capacity makes it very valuable for that purpose.

A. M. STRONG,
Hydraulic and Mining Engineer.

LOS ANGELES, CALIF., *May, 1919.*

Mr. FRITZ. Now about the Government engineer's report in the Los Angeles matter.

The CHAIRMAN. How long is that?

Mr. FRITZ. That has not reached me yet, and I do not know.

The CHAIRMAN. If there is no objection you can put that in.

Mr. FRITZ. That should go in. That is the Government report.

(The report follows:)

NOTE.—This report had been returned by the engineering office of the Agricultural Department here to their repesentative in California for revision so could not be obtained at time these hearings went to press for insertion therein.

Mr. FRITZ. I have here a letter from a firm of Los Angeles, Calif., attorneys, who are very creditable parties. They show why we should propose this amendment. It is not proposed by us exclusively.

The CHAIRMAN. We would like to know about it. What is the name?

Mr. FRITZ. It is proposed by Mr. Vermilyen and Mr. Carpenter. Do you want it read?

The CHAIRMAN. Yes.

Mr. FRITZ (reading):

JULY 29, 1919.

Mr. F. J. SANDERS AND ASSOCIATES,
Los Angeles, Calif.

DEAR SIRS: In compliance with your request, we have examined H. R. 406, a bill amending an act approved June 30, 1906, authorizing the Secretary of the Interior to sell to the city of Los Angeles certain public lands in California, and granting rights to said city in certain forest reserves, introduced into the House of Representatives by Mr. Osborne, May 19, 1919, with reference to its bearing, if passed, on your project to conduct the waters of certain streams tributary to Mono Lake to lands in southern Inyo County for the irrigation thereof.

While the proposed act does not in terms vest in the city of Los Angeles an exclusive easement over the strips of land referred to in the bill, that it would be construed as having such effect by implication, we have little or no doubt. Such being the purport of the bill, it need not be said that the result of its passage would be to preclude you from obtaining from the Government rights of way over such strips as may be designated thereunder by the city of Los Angeles.

As the successful accomplishment of your enterprise depends upon your securing rights of way for the transmission of water over and through the same lands that the city is seeking by this bill to subject to its exclusive use, it goes without saying that your endeavor in the first instance should be, by the use of every legitimate means available, to procure the defeat of the bill. If it be found that the bill can not be defeated, then an effort should be made so to amend it that the city's rights shall not be exclusive, but that the ground affected shall remain open for the location and acquisition by others of rights of way thereover for the carriage of water.

Very truly yours,

S. E. VERMILYEN,
S. L. CARPENTER.

Mr. TAYLOR. In other words, they want to kill the Los Angeles bill if they can; and if they can not, then they are willing to be decent, if they have to, and take their own amendment, are they?

The CHAIRMAN. The committee will probably have to go to the House. We will meet to-morrow at 10 o'clock. If you people can get Judge Finney, you probably can adjust these matters.

(Thereupon, the committee, at 3 o'clock p. m., adjourned until to-morrow, Tuesday, November 4, at 10 o'clock a. m.)

COMMITTEE ON PUBLIC LANDS,
HOUSE OF REPRESENTATIVES,
Tuesday, November 4, 1919.

The committee met at 10 o'clock a. m., Hon. Nicholas J. Sinnott (chairman) presiding.

The CHAIRMAN. Mr. Fritz, have you concluded your statement? Of course, you have the right to put something in the record. Have you had the conference, that was suggested yesterday, with Judge Finney?

Mr. FRITZ. Yes, sir. Judge Finney will submit the amendment here to you gentlemen. There were some little details connected with our proposition that I did not finish with in my statement yesterday, but the matter has been inserted in the minutes, as I understand it, by the stenographer.

The CHAIRMAN. You supplied that for the record?

Mr. FRITZ. Yes, sir. If there are any changes or corrections to be made, I can make the corrections with the stenographer, can I not?

The CHAIRMAN. Yes.

STATEMENT OF MR. EDWARD C. FINNEY, A MEMBER OF THE BOARD OF APPEALS, INTERIOR DEPARTMENT.

The CHAIRMAN. Mr. Finney, what is your official position?

Mr. FINNEY. I am a member of the Board of Appeals of the Interior Department. Last evening the attorney for the city of Los Angeles and representatives of the irrigation district, gentlemen representing some of the settlers in the valleys who desire irrigation, called on me.

The CHAIRMAN. Mr. Fritz and Mr. Edgar?

Mr. FINNEY. Yes, sir; Mr. Fritz and Mr. Edgar. They called on me and asked that I draft or aid in drafting an amendment to the bill which would permit of the use of the city's rights of way by other districts or corporations in such a way as would not interfere with or destroy the use of the rights of way by the city. So I drew up the amendment which is now before the committee. Shall I read it?

The CHAIRMAN. Yes; you may read the amendment.

Mr. FINNEY. It is as follows:

Provided, That the rights of way hereby granted shall be subject to the right of the head of the department having jurisdiction over the lands, in his discretion and under such conditions and regulations as he shall prescribe, to authorize the grantee, permittee, or his assigns, of any right of way granted or approved under any act of Congress now in force or hereafter enacted, for a canal, ditch, flume, tunnel, pipe, pipe line, or conduit, for the conveyance of water, or for poles, towers, or lines for the transmission or delivery of electrical power, to construct, operate, and maintain the same across, or for limited distances upon, the rights of way hereby granted, in such manner and at such places or points as the head of such department shall find necessary and shall determine will be without interference with or detrimental to the construction, operation, and maintenance of the works of said city.

Mr. JOHNSON. What department do you refer to there; you have refernece to the Interior Department?

Mr. FINNEY. Some of these lands are in forest reserves, and as to such lands the Secretary of Agriculture would have jurisdiction over the issuance of permits, such as power permits, or revocable power permits, and as to all permits on lands unreserved; and as to all permanent easements, the Secretary of the Interior would be the one having jurisdiction.

The CHAIRMAN. The language here is "the rights of way hereby granted." Do you want this to be a grant in presenti, or would you say "rights of way herein provided for"?

Mr. FINNEY. I think that, perhaps, is an improvement.

The CHAIRMAN. Then it should read "rights of way herein provided for"?

Mr. FINNEY. Yes, sir; I think that is an improvement.

Mr. TAYLOR. Do we not grant them anything here?

Mr. FINNEY. Conditionally.

Mr. MATHEWS. That was the phraseology in the old law.

Mr. TAYLOR. I do not think we should further limit the grants heretofore made in the former act. Why not use the same language that was used in the old act?

Mr. SMITH. You can not grant rights of way definitely unless you know where they would be.

Mr. MAYS. Have they not filed plats?

The CHAIRMAN. The old act reads "hereby granted." That is a present grant.

Mr. FINNEY. Yes; the bill uses that term. All of the gentlemen expressed themselves as being entirely agreeable to the city having the use of such rights of way as may be necessary, but they did not like to have a long strip of country tied up in such a way that other irrigation and power enterprises could not utilize the rights of way for crossings, at least, or for partial crossings or partial use for building irrigation canals and power lines as long as that did not interfere with the city.

The CHAIRMAN. Would this take care of Mr. Adams' difficulty?

Mr. FINNEY. I think it undoubtedly would.

The CHAIRMAN. And of all the power companies?

Mr. FINNEY. Yes, sir. Mr. Fritz and Mr. Edgar suggested that in line 9, preceding the words "poles, towers, or lines," there be inserted the words "power plants." Now, they have not any intention, as I understand it, of putting power plants upon the city's conduit or upon the city's rights of way, so far as disclosed at present; but they have the fear that the city might extend some of its power transmission lines up above into the valley and pass through some point that they intend to utilize for works for irrigation districts, and for that reason they suggested the insertion of the words "power plants." Then, in the third line from the bottom, where it is provided that "as the head of such department shall find it necessary and shall determine will be without interference with or without interference with or detrimental to the construction, operation, and maintenance of the works of said city," they seem to have a fear that the words there, "without interference with," might be construed by the Secretary of the Interior or the Secretary of Agriculture in such a way as to absolutely defeat their right to cross.

Mr. TAYLOR. On the other hand, it puts the whole power absolutely in the Secretary of the Interior and in the Secretary of Agriculture to practically confiscate this city's property if they want it. It is by this proposed amendment put entirely within their discretion. It is now a question of law. That is, I mean, to be determined by proper legal proceedings. But by this amendment the questions of interference, injury, obstruction, nuisance, obsticle to operation, damages, etc., are all placed in judgment, prejudice, or whim of some subordinate in the office of the Secretary of the Interior or Agriculture, and their determination is final and without appeal or right of review.

Mr. FINNEY. I pointed out that it was wholly discretionary, and that I thought that in order to deny a crossing by some other irriga-

tion district or power company, the Secretary would have to find that it was going to prevent or interfere in a material way with the construction, operation, and maintenance of the city's works. They had suggested that in the third line from the bottom the word "without" be stricken out and the words "porperly protective against" be inserted, so that it would read "as the head of such department shall find necessary and shall determine will be properly protective against interference with or detrimental to the construction, operation, and maintenance of the works of said city."

Mr. TAYLOR. They now have the legal right to have that without applying to the Secretary of the Interior. Nobody has the right to come along and injure or destroy their property without compensation, no matter whether the Secretary of the Interior or Agriculture finds that it does or does not. My position is that the city should not in this bill be compelled to surrender any of its plain vested legal rights to its own property.

I may be unduly apprehensive, but my idea is that when the city has obtained this grant from Congress under the act of 1906 for its water works and power plant system and has spent some $30,000,000 on it, that it has an honest vested right to that property the same or even more than a railroad has to its right of way over the public domain after full compliance with all Federal laws and regulations on the subject, and no railroad company would agree to permit that right of way to be constantly interfered with or injured merely in the discretion of any secretary.

The CHAIRMAN. The language suggested was "will be properly protective against interference"?

Mr. FINNEY. Yes, sir; "properly protective against interference."

The CHAIRMAN. What do you do with the remainder of it?

Mr. FINNEY. After the word "or" insert "be detrimental." The whole purpose, as I understand it, Mr. Taylor, is to protect rights of way. Certain rights of way are granted across the country to the city of Los Angeles, and it is to permit other individuals, corporations, or districts to go across with canals for the purpose of irrigating lands or transmitting power across the country.

Mr. TAYLOR. The city has no desire whatever to prevent them from going across at any time, or in any proper way or place, provided only that they do not interfere with the city's clear, legal, vested rights or operation of its plant or damage its property. In other words, plain common sense and common fairness.

The CHAIRMAN. This language is "shall determine will be properly protective against interference"?

Mr. FINNEY. Yes, sir; "properly protective against interference."

The CHAIRMAN. What else?

Mr. FINNEY. Or being detrimental to the construction, operation, and maintenance of the works of said city.

Mr. VAILE. "Not."

Mr. RAKER. Where does that come in?

Mr. FINNEY. The third line from the bottom.

Mr. RAKER. After what word?

Mr. FINNEY. Omit the word "without" and insert in lieu thereof the words "properly protective against."

Mr. RAKER. Striking out the word "without?"

Mr. FINNEY. Yes, sir.

Mr. RAKER. And putting in what?

Mr. FINNEY. "Properly protective against."

Mr. TAYLOR. Have the parties agreed to this amendment?

Mr. FINNEY. I spoke to the representative of the city about it and he thinks it means the same thing as the original draft which you have before you. I was of that opinion myself, but I did not care to assume the entire responsibility and so I put it up to the representatives. My idea is that when an application is presented by some one else to cross the city's rights of way, it would be up to the head of the department to find out whether the proposed crossing or use would interfere in a material or substantial way.

Mr. TAYLOR. As a plain proposition of law, when Congress, or the Federal Government grants to a railroad a right of way and the line is finally located, built and operated on that right of way, whether under the general right-of-way law or under special act of Congress, no matter whether the legal title passes in fee or not, the company acquires an absolute vested right to the peaceful and uninterrupted and uninterfered with use of that right of way. Now, the right granted to a city for a pipe line for its water works and power plant is just as much vested and just as sacred and important, and I deny that the Government retains any jurisdiction or right of control over the right of way, so long as it is being used by the city in a proper manner and for the purposes for which it was granted; and Congress has no right to delegate to the Secretary of the Interior, or any one else, the power which it does not have itself of saying who and how and when any and every one else may use that right of way jointly with the city and without paying anything for it, and without any regard to what interference or injury it may be to the city.

Mr. FINNEY. Some one must make the determination.

Mr. JOHNSON. They can not destroy the city's property.

Mr. TAYLOR. But suppose that the Interior Department official out there finds that the proposed crossing or joint use is no interference or injury, and the department grants the permit unconditionally and without any safeguards whatsoever, what recourse has the city?

Mr. FINNEY. Someone must decide those things.

Mr. TAYLOR. But it will not, the Secretary of the Interior himself, it will be decided upon the report of some field clerk or engineer upon the showing and promises made to him by the attorneys of the power company that there will be no injury to the city, and if he so finds, that is the end of it; there is no appeal or right of review, or any protection; they can destroy the city's property, or at least become a constant menace and nuisance, and seriously jeopardise and interfere with the city's free use of its own property.

Mr. FINNEY. I can not admit that.

The CHAIRMAN. We can not exercise a discretion in the matter.

Mr. TAYLOR. This is a matter of law and of common sense and fair dealing. No one has, or can justly claim any exclusive monopoly of any vast strip of territory to the exclusion of all other development throughout that region. Other people and other companies, even competing companies, have a right to get across that right of way

at any time during the next hundreds of years, and in a proper and safe and practical way and probably at almost any place along the right of way.

The CHAIRMAN. Yes.

Mr. TAYLOR. But they have not any right to damage it or to interfere with, or depreciate, its value, or jeopardise its use. These infringements should be arranged by mutual agreements, and if the parties can not agree then the questions should be determined by condemnation proceedings.

There was no provision of this kind in the former act of 1906, and Congress has no right now to insert in this act a provision compelling the city of Los Angeles to submit for all time to any official's discretion all question as to the adverse or joint use of all its waterworks and power-plant properties at all times and places and in any manner by Tom, Dick, and Harry from now on to eternity. I am not intimating the possible incompetency or undue influence that might be brought to bear on any subordinate official. I am simply saying that these questions of crossings and adverse use are matters that the city should be allowed to determine, either by agreement or in the courts. No Washington bureau should have that power.

Mr. MAYS. This company is not a common carrier.

The CHAIRMAN. It is the same, only you have a different forum to try the matter out.

Mr. TAYLOR. I do not like bureaucratic government 3,000 miles away. This proposed amendment compells the city to submit its rights to the subordinates of the Interior Department and the Agricultural Department instead of to the courts.

The CHAIRMAN. You have the right of appeal?

Mr. TAYLOR. No; there is no appeal in this amendment. The city can not go into the courts. This amendement gives the Interior and Agriculture Departments discretion to do what they please. They could grant any kind of a permit they saw fit.

The CHAIRMAN. The Secretary has to approve the rights of way under the act of 1906.

Mr. TAYLOR. Yes. The Secretary approves the right of way. But after the Secretary of the Interior has once granted a right of way, or after Congress has by special act, as in this case, granted a right of way, then and thereafter neither the Secretary or Congress has any right or authority to arbitrarily grant another right of way over or on or across the former right of way. That formerly granted right of way is gone and out of his jurisdiction, and he can no more grant a permit to another party to use it adversely to its owner than he can grant a permit to a stranger to take it all away from the first grantee.

The CHAIRMAN. There is no use to consider a railway right of way. The original act gives the same broad powers.

Mr. TAYLOR. The Secretary of the Interior can not and does not ever attempt to settle the question of interference or damages that a new railroad crossing would be to an existing lawful right of way.

The CHAIRMAN. Not the damages.

Mr. TAYLOR. That is what you are putting into this bill, and I don't believe any such provision was ever put into an important bill. I am confident the other cities had no such limitations on their grants.

The CHAIRMAN. As I understand, the city is willing to accept this amendment.

Mr. TAYLOR. Even if the city attorney is willing as a compromise to get this bill reported to acceed to that amendment, if it is not fair to the city or if it would be a bad precedent we should not agree to it. If these Secretaries can find and decide that a new crossing or a joint use by some other power company or a dozen other power companies is "without interference with or detrimental to the construction, operation, and maintenance of the works" that is the same exactly as deciding that there is no damages to its plant.

Mr. FINNEY. This has nothing whatever to do with the question of damages.

Mr. TAYLOR. It says that they shall find the very questions that determine its damages. If an adverse use interferes with the city's use it is an injury. If a crossing is detrimental, it is an injury. If it is an injury, it is a damage. I don't see any difference between injuries and damages.

Mr. FINNEY. That has nothing to do with damages.

Mr. WHITE. This is a case where Congress proposes to grant a right of way to the city?

Mr. FINNEY. Yes, sir; where Congress proposes to grant a right of way to the city of Los Angeles to use, reserve, and occupy the public lands of the United States for municipal purposes. The thought as regards some one else who may want to cross the land for another public purpose——

Mr. WHITE (interposing). Their interest is protected in the amendment?

Mr. FINNEY. Absolutely. If they desire to get a right of way which will cross the public lands, cross the city's right of way, the Secretary of the Interior or the Secretary of Agriculture is the person to whom they must apply under the law for that right of way. When an application of that kind is received it is the duty of the Interior Department or the Department of Agriculture to see whether that land is free from conflict, vacant, and subject to the application. If it is patented to some one the Secretary of the Interior can not grant a right of way to any one over it. If it is public land he can grant it, provided he is satisfied the application should be granted. There is a sort of easement or right granted to the city.

Mr. TAYLOR. Why call it "a sort of easement or right," when Congress has expressed by solemn act, by a law granted this property to the city for this most important purpose, and the city in reliance upon the good faith of the Government has gone ahead and expended some $30,000,000, based almost solely upon that grant?

Mr. FINNEY. Not on this particular area.

The CHAIRMAN. It is only a grant when the Secretary of the Interior approves the map and the plans of development.

Mr. TAYLOR. Upon compliance with the requirements of the general right of way law, or the conditions of a special act the grant becomes a vested property right, which neither the Secretary nor Congress can give any one else the right to destroy.

The CHAIRMAN. But the Secretary of the Interior has to approve the crossing scheme.

Mr. TAYLOR. Either Congress or the Secretary of the Interior can grant another company or person a right of way, but only, and solely, upon condition that it shall be subject absolutely to the prior rights of the city, which must not be infringed, and the Secretary has no right to say that a crossing is no infringement, or is not detrimental, or injurious, and thereupon "approve" it. The city's property can not be destroyed or confiscated by "approval," for the benefit of some other competing power company. When the city has expended that enormous sum of the people's money to get water and power, and have complied with the law, why should we attempt to put this tremendously vital and valuable property in jeopardy?

The CHAIRMAN. The right of way.

Mr. TAYLOR. The city owns that right as much as a railroad owns its right of way, and that ownership is subject to the right of others to cross it under proper conditions, and in a proper way, and the city has a right to say what are the proper conditions, and if the party does not like those conditions he can go into court and obtain his crossing that way, if he is entitled to cross.

The CHAIRMAN. Subject to this crossing right.

Mr. TAYLOR. But Congress has no right to say that any one individual or official shall be given the power to say that a crossing does or does not damage the city at all. It may cause the city $1,000,000 of damage through ignorance, carelessness, or maliciousness, with no redress whatever.

Mr. RAKER. I think the gentleman overlooks the fact that we are not discussing rights of way granted now to the city of Los Angeles. The city is here seeking new rights of way for ditches, canals, and electric power, and other people are doing the same thing. Congress has the full power to say, having given the city of Los Angeles the prior right, when it acquires the right that others may use the property, but not injure it, either one of them.

Mr. TAYLOR. Of course, the proposed amendment says the adverse crossings and use shall not be detrimental, in the opinions of the Secretary.

Mr. RAKER. Yes, sir.

Mr. TAYLOR. What I am objecting to is this effort of the committee to give an executive officer the sole power to say whether or not these property rights of the city are or not interfered with by a proposed adverse or joint user by other power companies.

Mr. RAKER. Mr. Taylor, you are taking the view that the city of Los Angeles owns these rights that belong to the Government. They are asking concessions. It seems to me that they should not simply stand up and object to everybody else; that they should permit the public domain to be used to its highest efficiency.

Mr. TAYLOR. Certainly, but after Congress has given them the right of way and they have spent $30,000,000 on it, and constructed almost the longest and largest waterworks system in the world, and they expect to and must for the welfare of 600,000 people, and a city that will soon have a million people, spend fully $20,000,000 more, we should pass any law that would permit any company by ingenious representations to secure from the Secretary of the Interior a permit to use that property or any part of it in any way its secretary may

see fit to authorize, regardless of what effect or injury it may be to the city.

Mr. BARBOUR. Bar everyone out?

Mr. TAYLOR. No, sir; certainly not. But let them get in the same way that everyone else now is required to secure a right to use other people's property.

Mr. MAYS. Anyone else would have the right if they do not injure it?

Mr. TAYLOR. Of course, anyone will and should have the right to cross the city's aqueduct and power line and right of way, provided he don't injure the city's use of it. But who is to decide that? I object to Congress saying to the world: Hear ye, hear ye! We have given to the city of Los Angeles a waterworks and power plant right of way that the entire life and growth of that city depends on and anybody under heaven can go and take as much of that property as he pleases and use it as he pleases, provided he can prevail upon the Secretary of the Interior to give him a permit to do so, and it won't cost a cent.

Mr. BARBOUR. And put a power line across it?

Mr. TAYLOR. Yes, sir; or put anything else on it.

The CHAIRMAN. We will now hear Mr. Mathews.

Mr. Mathews, you were at the conference when the amendment was agreed upon?

Mr. MATHEWS. Yes. As read, the amendment is not as we agreed upon it.

Mr. FINNEY. As I first read it?

Mr. MATHEWS. Yes.

Mr. TAYLOR. I think that we should give the city something and not bunco it. I do not think you are giving it anything if you give anyone the right to take and injure, or damage, or destroy the property, without any hearing in court or any redress. An appeal to the Secretary for relief after the injury is done will be a hollow mockery.

Mr. MAYS. You would prevent airplanes flying over the property.

Mr. MATHEWS. As a result of concession and compromise we all agreed on the proviso as first read.

The CHAIRMAN. Will you please read it so that we can have it in the record?

Mr. MATHEWS (reading):

Provided, That the rights of way hereby granted shall be subject to the right of the head of the department having jurisdiction over the lands, in his discretion, and under such conditions and regulations as he shall prescribe, to authorize the grantee, permitee, or his assigns, of any right of way granted or approved under any act of Congress now in force or hereafter enacted, for a canal, ditch, flume, tunnel, pipe, pipe line, or conduit, for the conveyance of water, or poles, towers, or lines for the transmission or delivery of electrical power, to construct, operate and maintain the same across or for limited distances upon the rights of way hereby granted, in such manner and at such places or points as the head of such department shall find necessary and shall determine will be without interference with or deterimental to the construction, operation, and maintenance of the works of said city.

The CHAIRMAN. The thing that you did not agree to was inserting the words "power plants" after the word "for"?

Mr. MATHEWS. I was not asked and would not agree.

The CHAIRMAN. And after the word "be" in the third line from the bottom there is the insertion "properly protective against" and

after the word "or" in the second line from the bottom "will not be." Those are the changes?

Mr. MATHEWS. I regard the last suggestion as having the same effect. I would not stand out on that, if they want it. We do not want it. We are willing to agree to the last-mentioned change, which has been a change brought up here since we agreed, where the word "protective" is used. We regard that as substantially the same, but less happily expressed. We do not stand on that; we will let that go in.

Mr. MAYS. Where is that?

Mr. MATHEWS. We do not agree to having power plants included.

Mr. VAILE. Where are the words "power plants" inserted?

Mr. MATHEWS. Just before the words "poles."

Mr. MAYS. You think that the effect of that would be to permit power plants to be constructed on your rights of way?

Mr. MATHEWS. Yes, sir. This grant that we are asking Congress to give us is a grant not only for the right of way for the aqueduct and pole lines, but for reservoirs and power-house sites. This would reserve the right to grant the privilege to subsequent parties to construct power houses not only on our rights of way but on our power-house sites and our reservoir sites.

Mr. MAYS. That would be detrimental to your enterprise, and clearly so?

Mr. MATHEWS. Yes, sir.

Mr. RAKER. That is not in this amendment.

The CHAIRMAN. That amendment was suggested at the conference.

Mr. MATHEWS. Since we agreed last night somebody has suggested its insertion.

Mr. RAKER. What insertions besides what you have read?

Mr. MATHEWS. Can you find the word "poles," halfway down?

Mr. RAKER. In line 8?

Mr. MATHEWS. Yes, sir. Before that insert the words "power plants."

Mr. RAKER. That is not in this amendment.

Mr. MAYS. No, sir.

Mr. MATHEWS. They went to put that in. That is something we did not agree to, but, as suggested to this committee——

Mr. VAILE (interposing). Do the representatives of the power companies agree to this amendment?

Mr. MATHEWS. No, sir. We were unwilling to agree with the irrigation people.

Mr. RAKER. Is there anything else except what you have read that these people want to go into this amendment from line 1 to line 14?

Mr. MATHEWS. In the third line from the bottom after the words "will be," strike out "without" and insert "properly protective against."

Mr. RAKER. Is that all?

Mr. MATHEWS. And in the second line from the bottom, "will not be detrimental."

My point is this, and I have sought to conform to what seemed to be the declared notion of the committee, we did not want to have grants made that would have the effect of sewing up these

irrigationists and we were agreeable not only to the provision for the Congress of the United States to determine, but what Judge Raker apparently favored in an earlier session in regard to the situation where they might for a short distance want to run along on the same right of way that had been granted to us. We concede what is covered by the language, "for limited distance upon the rights of way hereby granted."

Mr. RAKER. Mr. Mathews, permit me to ask you this question: If this bill gives the city of Los Angeles the prior application, and that seems to be the consensus of opinion of the committee, and if in making that prior application it takes land for a right of way for a pole line, or a power line, or otherwise that may be necessary for a water conduit for irrigationists or for like use of some power company, if it can be used, without interfering, without being detrimental to the city of Los Angeles, that ought to be granted and ought to be fair?

Mr. MATHEWS. I put that in on account of the——

Mr. RAKER (interposing). The Secretary of the Interior having the decision first.

The CHAIRMAN. He has met all of that.

Mr. MATHEWS. We agreed to that.

Mr. RAKER. What is the other objection?

Mr. MATHEWS. This morning after we agreed last night somebody suggested putting in the words "power plants."

Mr. RAKER. Suppose that you have made your application for the power plant upon a tract of land which covers 20 acres. You think that you need the whole 20 acres. A corner of that tract, 2 acres, are required for the other fellows. The secretary, after full investigation of the situation and after hearing, determines that the other fellows only want 2 acres, and that it will not be detrimental, because you have 18 acres left, and he determines, after full investigation, that they will not interfere with your operation, it would not be objectionable to give the other people a chance to develop their enterprise?

Mr. MATHEWS. For putting a conduit there?

Mr. RAKER. Yes, sir.

Mr. MAYS. What objection could there be to that?

Mr. MATHEWS. We have under the bill and under the act a test that our right of way is what the Secretary of the Interior shall find necessary for our purposes. We would regard it as extremely objectionable if the site for our power plant should be subject to the right of somebody else to put another power plant on the same site.

Mr. ELSTON. But supposing that you have already selected your site, and it may be the strategical place, and it was found that it would not hamper you at all by being on the same land?

Mr. MATHEWS. This does not interfere with that. This provides for putting them on the land hereby granted.

Mr. RAKER. No; just the reverse. You have the right to file your application, and the secretary must allow it if it is in form. Before he allows it, if there is another application pending which would take an acre or 2 acres of the land which you have applied for for the power site for their use, and it would not interfere or be detrimental to your project, although you might in the first instance

think so, but after investigation by all concerned it was determined by the secretary that it would not, he would have the right to approve your application for the 18 acres and allow the application of the other people for the 2 acres. That is the purpose of this amendment.

Mr. ELSTON. What you fear is this, that you could not select your power site?

Mr. MATHEWS. No, sir.

Mr. ELSTON. And you do not want anybody else to have the right to come in and make prior application on the very sites that you may desire to use for power sites, but if you have made your selection finally, if you have designated it in your application, then you have no objection to somebody else coming in and making application for land within the lines of your designated inclosure, but to be located in such a way that it does not interfere with your operations at all? In other words, do you want to do this: After you are fully satisfied, do you want to take advantage of your prior rights so as to bar anyone else from coming in there and to that extent having a monopoly?

Mr. MATHEWS. Under the terms of this bill we are only to get such land as is found to be necessary by the secretary. Then, just like a power company or an irrigation company, we do not want anybody to go on land subject to our right and acquire a portion of the land we have.

Mr. RAKER. That is not the position that you are placed in. You get the prior right if you have your application allowed first.

Mr. ELSTON. I do not know about that.

Mr. TAYLOR. You build in units, and you might not be able to build in three, or four, or five years, and in the meantime——

Mr. MATHEWS (interposing). We might not build for five years.

Mr. TAYLOR. A large city can not make its necessary arrangements to build it in a few days?

The CHAIRMAN. Is there any contemplated power plant or irrigation plant?

Mr. FRITZ. Yes, sir. The reason that we made this insertion was to protect ourselves against being shut out of the power site wherever it might be by giving the city of Los Angeles the prior right. You gentlemen all know that if we develop electricity that we can get it financed very easily and in that way pay for the construction.

The CHAIRMAN. Who suggested this power plant amendment?

Mr. FRITZ. We suggested it ourselves.

Mr. MATHEWS. Did you not talk to the attorney for the power companies about this?

Mr. FRITZ. No.

Mr. TAYLOR. You did not agree to this last night?

Mr. MATHEWS. No, sir.

Mr. ELSTON. You were fearful that this language in the proposed amendment might be construed as giving what you might call contemporaneous rights to other locators in such a way that they might apply for the same location that you would prefer to have. Is that the fear?

Mr. MATHEWS. No. Our fear is simply that while we are asking only for what is necessary for our purposes we do not want what is

given to us to be subject to a grant to a subsequent applicant for the same purpose on the same site.

Mr. ELSTON. For the same purpose on the same site, but not in such a way as to interfere with your operations?

Mr. MATHEWS. We have five years to construct our works, I think, after the maps are approved.

Mr. TAYLOR. That is not in this law. There should be five years to do it, but there is not five minutes allowed here.

Mr. ELSTON. If you were fearful that there might be some legal rights given to other concerns to come in at the same time you are coming in, you might add after the word——

Mr. MATHEWS (interposing). No; I have no fear of that.

Mr. ELSTON. I think the language indicates that it must be a later application.

Mr. MATHEWS. I want you to observe the position of the city. The bill cuts us absolutely in terms out of the Mono Basin. We have no right to go there for water or for power, and we are not only required to subject our rights of way to crossing, but are cut out of that territory from which to obtain either water or power. The territory they traverse is not a territory where we have any connections.

Mr. OSBORNE. I want to ask a question, if you will permit me, Mr. Chairman.

The CHAIRMAN. Certainly.

Mr. OSBORNE. So far as I am concerned, I do not apprehend much difficulty from the actual fact here, but we are raising the money to build these works by bonds. We have to sell those bonds, and every little impediment like this would have a tendency to make less secure the title to the property upon which we are raising the money and would have the effect of putting doubt into the minds of investors. That is my idea.

Mr. MAYS. May I ask Mr. Osborne a question, Mr. Chairman?

The CHAIRMAN. Certainly.

Mr. MAYS. When financing a railroad you would get up against the same impediment if you had a narrow gorge or canon through which only one railroad right of way could be obtained, and naturally you must give another railroad the right to go through that narrow gorge or canon?

Mr. OSBORNE. Yes, sir.

Mr. MAYS. What additional right is given here?

Mr. OSBORNE. As a matter of fact, there is room for all the power plants outside of the little ground that you grant here to the city of Los Angeles. We have certainly shown our good faith by an investment of $32,000,000 and probably an investment of $50,000,000. and therefore we must be careful about these things, and every cloud which you put upon our title in this act is a drawback to our ability to raise the necessary funds.

Mr. MAYS. Would you say that the right for other people to go across your aqueduct was a cloud?

Mr. OSBORNE. No; not at all. I should say that if you were to put power plants upon us, after having granted to us necessary land, if you should say that somebody else could come on that neces-

sary grant under any condition whatever, that that would be a cloud.

Mr. MAYS. I do not understand that there is any such contention.

The CHAIRMAN. You are apprehensive lest a power plant grant to somebody else might interfere with your power plant?

Mr. MATHEWS. Yes, sir.

The CHAIRMAN. Why not put in a provision that no power plant privilege granted to anyone else shall disturb the city's grant? The word "disturb" is a very comprehensive word.

Mr. MATHEWS. Our point is this, that the act in the first place provided that we should have what is necessary for us to have and we would have to continuously come here and defend it against grants to others.

Mr. TAYLOR. I do not seem to be able to make the committee appreciate my thought about the matter. I think that it can be used for a power plant or in any other way provided they do not injure the property right, but not to say provided that John Smith shall say that they do not injure the property right; it is a matter of law, and each has the right to have his own property protected against injury.

Mr. VAILE. To apply the same argument the other way, I remember very well when a distinguished gentleman traveled all through the West, all over the country, stating in effect that power plants were highbinders and malfactors. I do not think that this provision affords any privilege to the power companies. I hold no brief for the power companies, and I have not the slightest fear that the department would make any findings adverse to the city, but I have the fear that if the power company would serve all the lower part of California, the head of the department would find that that is not necessary as being "properly protective," so far as the rights of the city are concerned.

Mr. TAYLOR. Why not throw all reference to the discretions of the Secretary of the Interior and the Secretary of Agriculture out, and let it be a question of fact to be determined in the ordinary legal way? It will be a bad precedent to give an executive official sole and absolute power to decide all these adverse rights, questions of law and fact with no right of appeal or review.

Mr. BENHAM. I agree with you on that.

The CHAIRMAN. Why not make it a right of appeal?

Mr. TAYLOR. I do not think that the city should be compelled to submit its vast property rights to the discretionary adjudication of some clerk in the Interior Department. This lodging of absolute dominion in the discretionary power of the Secretary of the Interior and Secretary of Agriculture will always be a serious menace to the city even if it does not make their bonds unsalable. I do not think we are giving them anything under this bill that they could finance. If the city is required to sell bonds it will be on the credit of the city, and not on the strength of this act.

Mr. EDGAR. May I interrupt you there just a moment? The changes we have suggested this morning came to us in our sleep last night. The first words that I thought of this morning for the protection of our people were not suggested to me by anybody.

Now, I would like to correct Mr. Mathews's statement that our power in all developed in the Mono Basin. That is not correct. Four-fifths of our power will not be developed in the Mono Basin. A large portion is developed just outside of the Mono Basin, another portion is developed 15 or 20 miles further down, and another portion is developed even down below the Los Angeles-Haiwee Reservoir. Now, we do not expect to conflict with them in any way, but if they are granted a new power line right of way, it might extend 100 miles up the Owens River Valley and tributaries, and not go into the Mono Basin at all, and they might possibly cross exactly through the most important power plant rights, and if they go through with such a pole line as that, we would want the privilege of building a power line somewhere in there. If their rights were located there, we know that they could not go south from where they start or southwest or southeast. We do not know where they are going to operate, whether in Nevada, Southern California, or where they will go. They have agreed to keep out of Mono Basin, but some of our power plants are just outside of the Mono Basin.

Mr. ELSTON. The contention is that the putting of the words "power plants" in there was not that you wanted to have a power plant in there, or to locate a power-plant site, but rather, that if they should send a transmission line up a canyon and your power there should overlap that transmission line, you would, at least, want the right without interference with their power line to have a power site or even a reservoir site. I can easily imagine, since you have suggested it, that if they sent their power line up a canyon it might go through the entire valley, although they might not need it, and I have the idea that if their rights or grants attached to this power line, you would have to condemn the power line before you could get the use of the valley for a reservoir site.

Mr. EDGAR. I think if we knew where they were going we would not be objecting at all.

Mr. MATHEWS. We know that it is a city project and that we can not take the power to Nevada.

The CHAIRMAN. When do you expect to get your construction work under way, Mr. Edgar?

Mr. EDGAR. That is something I can not answer right now. We will proceed as rapidly as we can to finance the construction.

The CHAIRMAN. What is your best expectation of being able to finance it?

Mr. EDGAR. We hope to locate within the next year or 18 months, and then we hope to begin construction in as short a time as Los Angeles has done.

Mr. MATHEWS. May I ask Mr. Edgar a question?

The CHAIRMAN. Certainly.

Mr. MATHEWS. I think you stated inadvertently, yesterday—and if it was not inadvertent, you will know—that the State water commission had approved your application for water in Mono Basin. Were you not mistaken in that?

Mr. EDGAR. I think not; if not as to all of them, to a certain part of them.

Mr. MATHEWS. I understand from the commission that they have not as yet approved your application for water.

Mr. FRITZ. I do not know positively that they have as yet.

Mr. MATHEWS. Has any portion of it been approved so far as you know?

Mr. EDGAR. I think it has.

Mr. FRITZ. I am not sure.

Mr. EDGAR. We are not lawyers and can not tell you as to that. We are here as farmers. I want to correct one other impression in regard to the conference last night with Judge Mathews and Judge Finney. We left them last night trying to get a little more. Judge Finney will say that we tried to get something else. Now, we are willing to leave it to you gentlemen to protect us in the best way you can. We do not know whether that bill fully protects us or not or whether this amendment proposed by Mr. Mathews will protect us, but we have not absolutely agreed to it. We were trying last night to get something a little better. However, the hour was late, and we did not want to keep Judge Finney any longer. This morning the first suggestion that popped into my mind was this protection against the Secretary having the privilege of holding under this interference provision that he could not do anything for us under the bill. We do not want them to throw up their hands in our face and say that it would be an interfence——

Mr. MATHEWS (interposing). We agreed to an additional change.

Mr. RAKER. I doubt the legal correctness of the statement that has been made that if a man wanted a reservoir site which was traversed by an electric line he could condemn it under our law. I do not believe there is any power or any right to condemn such line under the law. The purpose of this is to enable the Secretary of the Interior to make final this grant, and that is what it does. If the city of Los Angeles desires to cross a power right of way under that bill and another party has an application pending, the Secretary could then say that this line could be moved around onto the rim of this particular territory so as not to be any detriment to the city. At the same time, if other people could use this land for a reservoir site, that could be done under this bill.

Mr. ELSTON. The city would have to pull up its lines.

Mr. RAKER. It will not pull up its lines. The maps and plats as filed——

The CHAIRMAN (interposing). But the definite location is approved.

Mr. RAKER. It will not define the location as approved, but the Secretary can say: "Move your line around here 3 or 4 miles." Clearly, under legislation of which we have control, we ought to permit the broadest use of the Government land in affording this opportunity to all the people.

Mr. ELSTON. Let me ask Judge Finney one question. Under this bill, in the matter of approving the application of the city of Los Angeles, does the Secretary have the discretion to approve it when the application is made or is it mandatory upon him to approve it when the maps required are filed? If the Secretary has the discretion when the city of Los Angeles puts in its application and surveys, then the Secretary of the Interior could say: "Why, here you people

are going right up a strategic valley which may hereafter be used or which should be open to some subsequent user." I think the Secretary of the Interior could look ahead and determine whether they are asking for something that is reasonable or something that would be exclusive as to subsequent users.

Mr. RAKER. Under your statement and under the law, or under this bill if it were passed, the Secretary of the Interior could compel those people to move their lines. That is the law now, irrespective now of this bill.

Mr. ELSTON. If you say it, I have no doubt of it.

Mr. RAKER. I thank you. The Secretary would allow and approve the plat unless there was some adverse claimant. He would not go out there and say that somebody in the future might need it. If there was an application on file, which was bona fide, showing that this land was available for another purpose and could be used, then the Secretary would have something upon which to act, and he would act, but, otherwise, he would allow the first application.

Mr. ELSTON. I have a fine answer to that argument, but it would take too long to give it.

Mr. TAYLOR. Why should we now put a cloud upon the city's title because of some remote or imaginary possibilities that do not exist?

Mr. SMITH. I understand that the attorney for the city of Los Angeles has agreed to the suggested amendment for the protection of the company——

Mr. MATHEWS (interposing). To one of them.

The CHAIRMAN. With the exception of the power plant amendment?

Mr. MATHEWS. There are two amendments, and I agreed to one.

The CHAIRMAN. Judge Finney was asked a question as to the interpretation of this proposed bill.

Mr. FINNEY. Section 1 of the bill authorizes the Secretary of the Interior to make determination as to what lands are actually necessary for power houses, diverting and storage dams, reservoirs, and necessary buildings and structures, and, in line 24 it provides for the approval of their applications for those sites. Section 2 deals with rights of way for lines, etc., and also provides, in line 2, page 4, for approval by the Secretary of the Interior.

Mr. ELSTON. Which involves discretion?

Mr. FINNEY. Yes, sir.

Mr. HERSMAN. Then, can any other claimant come in and get the right of paralleling it after the Secretary finally approves it?

Mr. FINNEY. Do you mean whether a claimant might come in and apply for the right to cross, if they did not interfere——

Mr. HERSMAN (interposing). I mean under the original bill, outside of this amendment.

Mr. FINNEY. No, sir.

Mr. MAYS. This line is 240 miles long, and if there were no right to cross it——

Mr. MATHEWS (interposing). We want them to have the right to cross.

The CHAIRMAN. We might hear from Mr. Adams, now.

STATEMENT OF MR. EDSON F. ADAMS, REPRESENTING THE MONO POWER CO., OF OAKLAND, CALIF.

The CHAIRMAN. Give your residence, please, and state whom you represent.

Mr. ADAMS. I am a resident of San Francisco and appear on behalf of the Mono Power Co., of Oakland, Calif., of which I am the principal stockholder.

The CHAIRMAN. What is that power company and where does it operate?

Mr. ADAMS. Mr. Chairman, I can review the statement I made at the last session of Congress last February in regard to this matter. I can do that briefly, if you will permit me.

This company has property and power rights on that portion of Owens River lying above the confluence of Rock Creek and said river and locally known as the Owens River Gorge, and mentioned in section 3 of the bill now under consideration. The Owens River Gorge is several miles in length and is approximately from 200 to 500 feet in depth and cuts through an open mesa sage-brush country. The country is open for miles on each side of the project of the Mono Power Co., and in looking across the country at right angles to the gorge it is not discernable until you approach comparatively near it. This bill now under consideration is a copy of a bill that was before this committee last session, and section 3 was amended in its present form by the committee to protect the rights of the Mono Power Co., it being, then, conceded that work was being prosecuted before Los Angeles received any rights to purchase lands from the reclamation withdrawal.

It was supposed at the time that the amendment gave the Mono Power Co. the right to file within six months after the passage of the act for such new rights of way as would be necessary for development or transmission of hydroelectric power in connection with its project. It is now found that the present wording of this part of the section is open to a double construction. In order to prevent misinterpretation we submit that it could be made perfectly clear by the insertion on line 20, page 5, after the word "development," the words "or transmission." With the blanket withdrawal proposed by this bill without giving this company the right to apply for such new rights of way as it might require for transmission lines and other uses it would be placed in a very bad position.

If the company should even apply now and their application should be placed on file and not acted upon before the withdrawal of lands took place, action on it would be immediately postponed until the time for Los Angeles to act had passed, which might mean several years. The department might say they were without jurisdiction and Los Angeles would say they had not selected lands and therefore condemnation proceedings could not be commenced against them.

We and our predecessors were in the Owens River Gorge before Los Angeles had a water project and before the Government had thrown a reclamation blanket over that section of the country.

Before beginning work inquiry was made from the United States engineer if any reclamation project was in contemplation to use the

waters of Owens River, and upon receiving a reply there was none, proceeded to develop plans and to commence work to utilize the waters for power purposes.

Two surveys were made to Tonopah, each approximately 100 miles long, over the White Mountains. The first one was made through Silver Canyon. Our engineers being first on the ground and had about reached the summit of the divide when they were passed by the engineers of the California-Nevada Power Co., who were making a flying survey. A series of complications arose, so this survey had to be abandoned. A new one was then run further to the north of Queens Canyon and an application filed with the Interior Department for this right of way. Los Angeles immediately protested the granting of the rights of way, taking practically the same position as they are now taking regarding the insertion of the words "or transmission," although at that time they set up only the supposed injury to their water project, as they has no electrical developments in contemplation covered by the reclamation withdrawal, portions of which they had obtained by the act of 1906. I will quote from Los Angeles' short opening statement of their protest at that time:

The city of Los Angeles files herewith its protest against the granting of the application of the Mono Power Co. and respectfully submits that the said protest should be sustained and the said application rejected, and in support of such protest respectfully contends—

First. That the protest of the city of Los Angeles shows that the granting of the application of the Mono Power Co. would be detrimental to the projected water system of the said city.

Second. That the matters set forth in the protest of the city are within the jurisdiction of this department, and are not for the determination of the courts of the State of California.

Third. That the rejection of the application of the Mono Power Co. will not affect any vested right of that company with respect to the use of the waters flowing in said Owens River.

These protests of Los Angeles stopped further consideration of the application of the company for its rights of way. The Mono Power Co. then brought the matter to the attention of President Roosevelt, although he had previously written a letter regarding power companies, which has been mentioned at this hearing, and he appointed Charles D. Wolcott, then director of the United States Geological Survey, and Gifford Pinchot, forester, to make a thorough investigation of the rights of the Mono Power Co. and report to him. This was done. Los Angeles made a strong stand against our company. After full consideration covering a period of some months they reported against the position taken by Los Angeles and that was approved by the President. The Secretary of the Interior then issued the permit now in force to the Mono Power Co.

The CHAIRMAN. What year was that?

Mr. ADAMS. That was, I think, after the passage of the act of 1906. It was on file before that, but they held it up.

The CHAIRMAN. Immediately after it?

Mr. ADAMS. I think so.

By the time the delay was over, caused by the protest of Los Angeles, the business of Tonapah and Goldfield had been secured by another company, which had prompt action on its application, and the result was, after a large expenditure of money we were prevented from taking our share of the business.

Since then I formed a company and leased the United States Reclamation power plant at Lahontan, on Truckee-Carson project, and have been developing a power business that will soon enable it to utilize power to be generated by the Mono Power Co. Very large developments are taking place in a reasonable distance from the project of this company, which will undoubtely require a very large amount of power in the very near future.

The Mono Power Co. does not wish to be placed in a position where it will not be able to acquire all necessary rights of way by the shortest routes without protest. My company, like Mr. Mathews, finds their plans and rights of way have to be changed, and we commenced a suit against Los Angeles—a condemnation proceeding. And instead of their coming in and trying it in the courts adjacent to the land, they took advantage of a new act of California which allows a municipality to go outside of the county in which the land is located for a trial of the case. That question was taken up and decided adversely to Los Angeles by the superior court, and they appealed to the appellate court, and this appellate court confirmed the contention of Los Angeles.

Mr. BARBOUR. What county was that?

Mr. ADAMS. Mono County.

Mr. BARBOUR. That is where the works were located?

Mr. ADAMS. Yes, sir; in Mono and Inyo Counties.

The proceeding was to condemn certain lands outside of lands now owned by the company for rights of way for tunnels, ditches, pipe lines, and power-house sites, to put in use some of the water rights which were excepted out of the bill of 1906. These actions are still pending.

I would like to say in regard to the remarks of Mr. Randall relative to power companies at the opening of this hearing, that I think he was unintentionally severe on the Mono Power Co., considering the amendment asked by them and the circumstances surrounding their position.

The CHAIRMAN. How much power are you developing now?

Mr. ADAMS. I can not develop any power as yet. I am working upon the project and am complying with the laws of the State of California.

The CHAIRMAN. How much has been invested in your scheme?

Mr. ADAMS. Over $300,000.

The CHAIRMAN. That much has been expended?

Mr. ADAM. Yes, sir.

The CHAIRMAN. Does this suggested amendment take care of you?

Mr. ADAMS. No; I do not think it would. We were there first, and I think that under that amendment they could come in and ask for rights which would wipe us out.

The CHAIRMAN. All that you are asking for is for the transmission of power?

Mr. ADAMS. Yes, sir.

The CHAIRMAN. This suggested amendment as agreed upon by Mr. Mathews includes lines for the transmission or delivery of electrical power, and that is what you are asking for in your amendment, is it not?

Mr. ADAMS. Yes; but if you will read the rest of section 3, you will see that we have asked for the development of power, which we have the right to ask for.

Mr. TAYLOR. Why do you say that this would let somebody wipe you out?

Mr. ADAMS. The grant made to Los Angeles previously is only a limited grant which they purchased from the Reclamation Service out of the reclamation withdrawal lands. It is only a limited grant. I am not a lawyer, and so can not interpret it.

The CHAIRMAN. Whom do you mean by "they"—Los Angeles?

Mr. ADAMS. Yes. It is a limited grant, because it was made under an act that surrounded it with certain conditions. They only received what that act gave them no matter what their patents called for, because they received it under that grant.

Mr. TAYLOR. How does that wipe you out?

Mr. ADAMS. They could go and ask for rights on top of any rights that they may now have acquired from their purchase from reclamation withdrawal.

Mr. SMITH. Under this provision your previous application is protected, because it says here "without interference with or detriment to."

Mr. ADAMS. But they could go in and ask for rights of way and power sites right on top of our properties——

Mr. MATHEWS (interposing). I believe I can straighten that whole matter out——

The CHAIRMAN. All that you desire is the right to transmit power or that is the only additional amendment you are asking to section 3.

Mr. ADAMS. This provision reads:

And provided further, That the grant hereby made shall not apply to any lands or rights of way included in any application filed by, and thereafter approved to, any person or corporation for the development of hydroelectric power in connection with any project upon which actual cnstruction work was being performed prior to June 30, 1906, on that portion of Owens River lying above the confluence of Rock Creek and said river, and locally known as Owens River Gorge, and upon which portion construction work may have been carried on continuously since that date: *Provided*, That such applications for rights of way over or the right to use lands shall be filed within six months from the date of the passage of this act.

Mr. ELSTON. That amendment was drafted by Judge Finney last year?

Mr. ADAMS. Yes, sir.

Mr. ELSTON. This amendment, while it seems to be general in its terms, refers only to your concern, because there is no other concern that had any rights acquired there prior to June 30, 1906.

Mr. ADAMS. Yes, sir.

Mr. ELSTON. The effect of the last bill was to remove you from the operation of a blanket option given the city, and to permit you within six months after the passage of the act to prosecute your application for the necessary rights of way in connection with your project. Is that true?

Mr. ADAMS. Yes, sir.

Mr. ELSTON. It was thought by you that this amendment was inclusive enough to permit you to prosecute your work which was initiated prior to their coming in there, in all of its ramifications, in order to take advantage of your investment?

Mr. ADAMS. Yes, sir.

Mr. ELSTON. And the only difficult you have is this, that in connection with this clause, which was put in here expressly for your benefit last year, you have been advised that the word "development" does not permit your to carry out fully your project, which requires transmission lines, and that if this act goes into effect without the words "or transmission," you will have to wait until after the year 1922, if the city delays that long in making application, before you can make any application of any kind for rights of way for your transmission lines—is that true?

Mr. ADAMS. That is correct.

Mr. ELSTON. In other words, what was intended here was to give you a full outlet for your development, which was instituted prior to the city's project, but now you have been advised that you are practically cooped up and can not secure any service at all from transmission lines until after the city has made its application and filed its maps, which might not be until 1922.

Mr. MATHEWS. I think we can meet that situation.

The point is this. The amendment read and contained in the bill was drawn by Mr. Finney and afterwards agreed to. It means just exactly what it says, but I am prepared to make a change on the basis of reasonableness and fairness. You will observe—I called this to your attention the other day—the effect of the proviso is that our right to select rights of way shall be deferred in behalf of the Mono Co., so far as the development of power is concerned, until six months after the bill goes into effect. That is, we can not select anything that may have priority against it, so far as development is concerned. I will make this proposition and I think that is in your mind and Mr. Elston wanted to talk about it.

Mr. ELSTON. Yes, sir.

Mr. MATHEWS. If you wish to change this language here put in the words "or transmission" at the point named.

The CHAIRMAN. In line 20 on page 5 after the word "development?"

Mr. MATHEWS. At the end of the section, change the phraseology so as to conform to the phraseology previously employed:

Provided, That such applications for rights of way over or the right to use lands shall be filed prior to the filing of maps by the city of Los Angeles, showing the boundaries, location, and extent of the rights of way sought by said city.

Using the same phraseology that has been employed in this bill in reference to the designation of the rights of way.

Mr. ELSTON. That would put you both in the position that the law now finds you if you had no preferred right. It deprives Mr. Adams of the preferred right until he has filed his application, it makes it a mere matter of decision by the Secretary of the Interior if the applications are filed at the same time or relegates the matter to the approval of the one who is there first and whose application is approved.

Mr. MAYS. Would that cause them to break the speed limit?

Mr. MATHEWS. No, sir.

Mr. RAKER. Where would that amendment begin?

Mr. MATHEWS. Let me refer you back to where I am borrowing language. Beginning in line 13 of page 5.

Mr. RAKER. What word?

Mr. TAYLOR. After the word "irrigation."

Mr. MATHEWS. Yes, sir.

Mr. RAKER. Down to where?

Mr. MATHEWS. Down to the word "city" at the end of line 16.

Mr. VAILE. Instead of the proviso on page 6, so that the proviso at the top of page 6 shall read this way:

Provided, That such applications for rights of way over or the right to use lands shall be filed in the proper United States land office prior to the filing of maps by the city of Los Angeles, showing the boundaries, location, and extent of the rights of way sought by said city?

Mr. MATHEWS. Yes, sir.

Mr. ELSTON. There is only one question. Suppose that both of your applications were pending at the same time, is not the effect of that this, that immediately upon the filing of yours it fits the grant made by the act and therefore you people have a grant while the other people have merely an application?

Mr. MATHEWS. No, sir.

The CHAIRMAN. You might give him a definite time?

Mr. MATHEWS. The act says that it becomes effective when we file the maps.

Mr. FINNEY. When you file your maps?

Mr. MATHEWS. Yes, sir.

Mr. FINNEY. Suppose you file your maps before he does?

Mr. MATHEWS. Then, the priority controls; the priority in the filing of the maps controls.

Mr. ELSTON. As a matter of law, suppose that both applications were pending at the same time, could the contention then be made by the city of Los Angeles that the terms of this act constitutes a grant in your favor as soon as your application is filed and to that extent it is mandatory on the Secretary of the Interior to grant the right of way instead of that which is already designated and that there is no opportunity for the Secretary of the Interior to compose the two applications in such a way that Mr. Adams can get what he wants and that you can get what you want; do you think that discretion is with the Secretary?

Mr. MATHEWS. The proviso reads that the grant shall not apply to any lands required for the development of power or the transmission of power by this company, if they file their maps before we file our maps.

Mr. ELSTON. And taking the converse of it, it shall apply if they do not file their maps before you do?

Mr. RAKER. Taking the proviso on lines 1, 2, 3, and 4 of page 6 and adding to it lines 13, 14, 15, and 16 on page 5, which you suggest, if this act is passed and the city of Los Angeles has its maps and plats ready for filing and goes into the land office and files them, then the other fellow is cut out, notwithstanding that he has the maps?

Mr. MATHEWS. Exactly as under the present law. If they should go to-morrow and file their application under the existing law, then we are cut out.

Mr. MAYS. You do not want that situation?

Mr. MATHEWS. We are willing to take our chance.

Mr. RAKER. Under the present bill they are given six months to file their application?

Mr. MATHEWS. As to the development of power.

Mr. RAKER. They are given six months. If the amendment you suggest goes in they would have six months in which to file their application after the act took effect.

Mr. ELSTON. No.

Mr. RAKER. As it now stands.

Mr. MATHEWS. Yes, sir.

Mr. RAKER. If you put in this other amendment, lines 13, 14, 15, and 16 on page 5, if the city obtains its filing first, within a week after this act was passed, then this other company would be shut out?

Mr. TAYLOR. Not shut out at all, but made subject to this other application.

The CHAIRMAN. Why leave it to a foot race?

Mr. RAKER. The way it now reads it gives six montths to file the application. If you put in this amendment and the city of Los Angeles files its application first, the other fellow is shut out.

Mr. ELSTON. The priority controls in the way that Mr. Mathews has stated. I should like to have Mr. Finney's opinion on this matter.

Mr. FINNEY. That language is the same as is in the act of 1891 that deals with irrigation, canals, reservoir sites, and so forth. It uses the same language, and under that act, other things being equal, we grant to the prior applicant, the one who has filed his application in the land office first.

Mr. ELSTON. You regard that as mandatory and therefore you have no discretion?

Mr. FINNEY. If the applicant complies with the requirements of the law.

Mr. TAYLOR. As I understand it, this question between Mr. Mathews and Mr. Adams, it is that the first one who gets in and gets the first location occupies the position merely of a prior locator, and when the other fellow comes in he must come in without damaging what the prior man has already done. In other words, the first location is not at all an exclusive right, even if it is a horse race. The fellow who gets in there first, no matter whether it is the city or the other company, the other party still has the right to run over the first one, but must not injure what the first locator has already done. In other words, the priority does not amount to so very much, except that the other fellow must respect his right when he comes in and not destroy property or injuriously infringe upon the first locator. That is all there is to this.

Mr. MATHEWS. Let me call your attention to section 1 of the bill, which is the same as the act of 1906:

> That there is hereby granted to the city of Los Angeles, Calif., a municipal corporation of the State of California, all necessary rights of way—

Down to line 23, on page—

> Whenever said city shall have filed as hereinafter provided, and the same shall have been approved by the Secretary of the Interior, a map or maps showing the boundaries, locations, and extent of said proposed rights of way for the purposes hereinabove set forth.

Mr. ELSTON. That looks as if it might give the Secretary some discretion.

Mr. TAYLOR. That is only the right that it ought to have. The city ought not to have somebody come along and destroy what it has.

The CHAIRMAN. What is the purpose of putting in this bill the right of development of hydroelectric power without giving them the right to cross with their transmission lines?

Mr. MATHEWS. Because that is the only statute under which they take now and will take in the future.

The CHAIRMAN. They have that right now?

Mr. MATHEWS. They have that right now and will in the future, and that is the one they will operate under.

The CHAIRMAN. Why not confirm the future, then, by an amendment here?

Mr. TAYLOR. His idea is it is unnecessary and hampers these people and puts an additional, unwarranted, and unnecessary cloud upon their right.

Mr. ELSTON. Notwithstanding all the rights which they have under the present law or may hereafter have under the present law, what will be the effect if this present bill we are considering goes into effect in the words it now contains, without the words "or transmission"? What will the effect upon any applications which Mr. Adams may make for transmission lines of the Mono Power Co. prior to the time Los Angeles city has made any filings under the terms of this bill—prior to 1922?

Mr. MATHEWS. They would acquire rights provided in the general laws under which they present their applications.

Mr. ELSTON. Is not that right, though, suspended by reason of the withdrawal feature of this act in your favor until you exercise your rights? I will ask you if that is not true?

Mr. MATHEWS. No. The point we are objecting to is giving them six months after this act goes into effect for our benefit, in which they can select their rights of way, and during that time suspending our right to go in and select our rights of way.

Mr. TAYLOR. You do not want to be asked to sit still for six months if these companies are going to be permitted to go ahead in the meantime?

Mr. ELSTON. He was willing to do that in what he thought was included definitely in the term "development." But now it is agreed the term "development" does not include transmission lines, and I now have asked Mr. Mathews this: Notwithstanding any rights Mr. Adams may have now or hereafter under existing laws, whether, if this act is passed, unamended, as Mr. Adams suggested with regard to the words "or transmission," his right to file an application for transmission lines is not suspended until 1922, until after the city files its locations?

Mr. MATHEWS. Not at all.

Mr. ELSTON. Is that true or not?

Mr. MATHEWS. Absolutely not. If Mr. Finney says that is true, I will abide by it.

Mr. RANDALL of California. Mr. Adams, when he was before the committee last year, testified his project had been under way and pending for 17 years, and he was asked why he had not exercised his

right to file rights of way during that time, or whether he could not file them immediately, and Mr. Adams said "Yes," he thought he could file them within three weeks. That was last February.

Mr. ELSTON. That is a fact, Mr. Adams?

The CHAIRMAN. Have you filed, Mr. Adams?

Mr. ADAMS. No; I have not, I will tell you in a power proposition those things are changing constantly. What might be open to-day would not be open to-morrow; and you have to have the right to file when the matter presents itself.

The CHAIRMAN. What do you mean by things being open to-day might not be open to-morrow?

Mr. ADAMS. If there was a request to furnish power to a mining camp or any place of that kind, you would have to have the right to run to them; otherwise you would be barred.

Mr. FINNEY. Won't that be true at the end of the six months?

Mr. ADAMS. It will be, but we will have to take our chances on that.

Mr. FINNEY. Why are you not satisfied with this proposed amendment which will allow you to get out of there?

Mr. TAYLOR. It seems to me that amendment protects all of them according to which one is first.

Mr. ADAMS. Under this amendment here they might have the right, possibly, to try to attempt to come in on the river and interfere with out water project, as they only have now a limited title to the land they could come in and ask the Government for a complete grant. This would be a confirmation of anything they want. As a matter of fact they have now filed temporary filings with the Interior Department (which I have found out since I have been here), which I think will be conflicting and I am going to protest to the department, because they are in conflict with the terms of the original act of 1906, as a matter of equity.

The CHAIRMAN. This amendment gives you the right to cross them at any point with transmission lines. Then you say it gives them the same right as against you.

Mr. ADAMS. It would if you have that general provision as they have in their amendment; the amendment proposed by me simply gives me the right to continue under section 3, which protects vested rights which we have.

The CHAIRMAN. You want rights as against them, but you are not willing to give anybody rights as against you?

Mr. ADAMS. All I want is what I am entitled to, Mr. Chairman, and we are entitled to water rights on the river and also for the development of it. We are now entitled to that. This amendment, as proposed here, as it looks to me, would give them additional rights which might affect our rights.

The CHAIRMAN. Specify those additional rights.

Mr. ADAMS. If they should go to work and apply for a power house site along the river and take the water out of the river, and all that kind of thing.

The CHAIRMAN. No; they can not apply to take the water out of the river. That rests with your State to give that right.

Mr. ADAMS. I understand, and we are perfectly willing to try that out with them at any time, so far as that goes.

Mr. TAYLOR. Mr. Adams is in exactly the same position toward the people coming in later and this could infringe upon them coming in and getting their rights and I think the power companies could infringe upon the city's rights, and it is putting himself in the same position where he seeks put Los Angeles.

Mr. ELSTON. All you want is the right to get out with your present project. You are about as ready as the city to file, and have you any serious objection to what Mr. Mathews suggested, which would really make it a race between you to a certain extent, with this result, that if they beat you to it, nevertheless, you would be protected with an amendment allowing you to get across.

Mr. MATHEWS. It would let them cross, but we could not get across.

Mr. ADAMS. Section 3, as in the original act——

Mr. ELSTON. That is going to stay in.

Mr. ADAMS. I know, but section 3, as in the original act, gave us protection.

Mr. MATHEWS. The original bill?

Mr. ADAMS. Yes; the act of 1906.

Mr. MATHEWS. No; I beg your pardon.

Mr. TAYLOR. Now, is it true if the city wants to cross, it has to pay damages to go across; while, on the other hand, other people can go ahead without paying anything?

Mr. RAKER. What Mr. Adams means is under the original act of 1906, prior applications and rights were reserved, and under this bill they are not; that any applications pending, it make no difference how many there might be or how valid, if this bill becomes effective they are all suspended——

Mr. ADAMS. Yes, sir.

Mr. RAKER. And the Secretary of the Interior can not allow a single one until the city of Los Angeles' rights of way have been provided for, under the bill, for the next seven years.

Mr. ADAMS. Yes, sir.

Mr. ELSTON. Mr. Mathews combated that very statement, and said he would leave it to Judge Finney with regard to whether that is true or not.

Mr. RAKER. This bill does not reserve any rights.

Mr. TAYLOR. I would like to have your question read, and ask Judge Finney whether this bill sews up for seven years the right for anybody else to come in and develop on that land or not.

Mr. RAKER. It really does.

Mr. TAYLOR. I don't think so. If it does, I do not want to do it, especially with respect to the rights of the people who were there first.

Mr. RAKER. It authorizes the Secretary of the Interior to withdraw all this land; he is allowed to withdraw it the moment this bill is passed; and no further applications can be had except as provided for in the bill. All prior applications pending and not approved are pending until this grant is complied with.

Mr. FINNEY. No, Judge; the effect of this, as I understand it, would be to withdraw any lands within the purview of the city's grant.

Mr. RAKER. All right.

Mr. FINNEY. With the exception of those classes described here in section 3.

Mr. RAKER. That is right; that is what I say.

Mr. FINNEY. Beginning at the bottom of page 4, it says:

This act shall not apply to any lands embraced in rights of way heretofore approved under any act of Congress, nor affect the adjudication of any pending applications for rights of way by the owner or owners of existing water rights.

Now, then, it is further provided, beginning in line 10:

That the lands affected hereby shall be subject to applications for homesteads, for rights of way for canals, ditches, or reservoirs, for the conveyance, delivery, or storage of water for irrigation, if same be filed in the proper United States Land Office prior to the filing of maps by the city of Los Angeles showing the boundaries, location, and extent of the rights of way sought by said city.

Those are the exceptions.

Mr. RAKER. There are only two exceptions in the bill; first, homesteads and for canals for irrigation.

Mr. FINNEY. Yes.

Mr. RAKER. And, second, for those one or two power plants, or whatever it might be, that are provided for in the proviso commencing in line 17. But all outside of that it is general; is that right?

Mr. FINNEY. That is right.

Mr. TAYLOR. If anyone goes out now in any one of the Western States under the act of 1891 and seeks to get a right of way for a railroad, or wagon road, or a canal, or a ditch, or reservoir, he is entitled to the time reasonably necessary for construction before anybody else can come in and take it away from him.

Mr. RAKER. Any right of way applied for under this bill, a right of way for a canal or otherwise, 10 years ago, and still pending in the department and not approved, would be repealed and this act would supersede.

Mr. TAYLOR. No; if their application is pending it would not, because a reasonable time is excepted.

Mr. RAKER. But there is only one excepted, and that is that one that made application prior to 1906, or whatever it might be, or two.

The CHAIRMAN. Who else is there to be heard?

Mr. MATHEWS. I would like to say just this one thing: You remember the Owens Valley people came in here representing a comprehensive system or a large number of interests in Owens Valley and said they might want to take up additional canals in connection with irrigation and they wanted the country left open so far as this bill was concerned to take those out. They said the bill should be worded "so that the grant should not be operative against us, provided we get our maps on file before the city gets its maps on file." My suggestion to Mr. Adams as to his existing enterprise is that we put it in the same status as irrigation systems in the Owens Valley which were represented here last spring. That is all it is.

Mr. MAYS. Do you object to that Mr. Adams?

Mr. ADAMS. Yes, sir; I do, because the Owens River Valley schemes are in process of formation. Our project is already started.

We have been expending our money and doing our work and are there now.

Mr. MAYS. Are you ready to file?

Mr. ADAMS. Yes; we can file within a reasonable time, probably; but if these filing are not acted upon, then they become void until after Los Angeles get through.

Mr. FINNEY. No; that is wrong. This says:

This act shall not apply to any lands embraced in rights of way heretofore approved under any act of Congress, nor affect the adjudication of any pending applications for rights of way by the owner or owners of existing water rights.

Mr. ADAMS. They protested before and held up the proposition which was decided against Los Angeles. They protested the same kind of a proposition before as in this bill.

The CHAIRMAN. That is not the question. The question is as to the language.

Mr. ELSTON. The language protects you, but as to just what the department might do you can not bring that into the bill.

Mr. ADAMS. I know that, but the effect of it was I have been stopped by their action.

Mr. ELSTON. That would be the same anyway. You have a preference here of six months up there.

Mr. ADAMS. That is what they are opposed to.

The CHAIRMAN. This says:

"This act shall not * * * affect the adjudication of any pending applications for rights of way."

How can language be any plainer than that?

Mr. ELSTON. That absolutely protects you.

(Mr. Adams was requested later in the hearings to file names of officers of the Mono Power Co. to be part of the record. He filed the following list:)

H. A. Mosher, president, Oakland, Calif.; J. P. O'Brien, vice president, San Francisco, Calif.; A. D. Henderson, secretary, Lovelock, Nev.

STATEMENT OF MR. JOHN R. DIXON, REPRESENTING THE SOUTHERN SIERRAS POWER CO., RIVERSIDE, CALIF.

The CHAIRMAN. Give your name and residence and state for whom you appear.

Mr. DIXON. John R. Dixon, attorney for the Southern Sierras Power Co., whose main operating offices are located in the company building at Riverside, Calif. My own address is 613 Symes Building, Denver, Colo. Mr. Charles F. Consual is associated with me at this hearing on behalf of the company.

The CHAIRMAN. That is the company Mr. Kettner referred to?

Mr. DIXON. Yes, sir. I sincerely hope you will give us a reasonable hearing. We are not going to trespass upon your time any longer than absolutely necessary.

The CHAIRMAN. Don't you think we have been doing that?

Mr. DIXON. We have not been heard yet at all.

The CHAIRMAN. But as to the others?

Mr. DIXON. Yes. If you will only give us half the chance you have given the others, that is all we ask. I would like to say at the outset, Mr. Chairman and gentlemen, that we are not here in any

spirit of hostility to the city of Los Angeles. On the contrary, the reason why we did not appear at the previous hearing was owing to the fact that from the published reports touching this bill the officials of the company gained the idea that the motive of Los Angeles was to have its right of way for the aqueduct validated in so far as that aqueduct now departs from the original surveyed lines, to which certainly we had no idea of objecting. Secondly, that in so far as it had applied or should apply under the general laws of the United States for rights of way, its rights should be extended to 250 feet; and to that we had no objection.

It was not discovered by the company, and apparently was not discovered by this committee, that the bill confers a present, exclusive grant on the city. That is to say, there is a contrariety of views, and I agree entirely with Judge Raker that when you get the written opinion from the proper law officer of the Government, instead of an offhand one here, you will find this bill is a grant in praesenti, to take effect upon the mere filing of maps, which may be filed at any time within three years. And in so far as power purposes are concerned—observe the distinction—in so far as power purposes are concerned it is a repeal or suspension in this territory of all power legislation by Congress for three years to come, and vests the power now exercised over that matter in two executive officers of the Government, in the city authorities of Los Angeles. In other words, for the next three years, if this bill passes unamended (and that is why we are here to seek an amendment which will protect us), it gives the city of Los Angeles the absolute power to say who shall and who shall not apply for rights of way for power projects within this immense area, constituting an empire, of 240 or 250 miles long.

Now, in order that you may appreciate the position of this company because it has been spoken of here derisively as a private company, I shall show you in a few moments it is no mere private company—I will speak of that now if you will indulge me. Every lawyer around this board knows that when a municipality engages in supplying one of the indispensable necessities or conveniences of life, the works which it constructs for that purpose or other facilities employed are held by the city, not in its governmental but in a proprietary capacity.

Mr. Taylor must certainly remember the Pikes Peak Power case, decided by the Eighth Circuit Court of Appeals, one of the leading cases in the country, the principle of which is that whilst a city is not liable, for instance, for the tortious acts of its policemen, because they are unauthorized, yet, like a private corporation, it is liable for negligence in conducting power works. In other words, the decisions of the courts are uniform that when a city engages in its proprietary capacity in business it is to be deemed in law to that extent a private corporation. And I assert here to-day, without fear of successful contradiction, if you will look at the authorities, that the city of Los Angeles, in performing the utility service by its proposed power works, is as much a private corporation as the Southern Sierras Power Co., though the works themselves may be public in a sense.

Now, it may be somewhat different with a water proposition, the carrying of water down to the city to be consumed. But I am speaking of the distribution of power for conpensation. It stands on all

fours with the Southern Sierras Power Co. in that respect, and I now desire to contrast the two private companies.

What is the Southern Sierras Power Co. doing? The Southern Sierras Power Co. serves the counties of Mono, Inyo, Kern, San Bernardino, Riverside, and Imperial, the population of the communities served being about 210,000, including Redlands, San Bernardino, Imperial Valley, the principal output of which is used in icing cars of fruits, melons, and vegetables shipped to eastern markets. It also supplies power to cotton gins and to cottonseed oil mills in Imperial Valley. In fact, 95 per cent of all the electric power used in the Imperial and Coachella valleys is supplied by this Southern Sierras Power Co.

Aside from these uses, over 13,000 horsepower is being supplied for electric motors operating irrigation pumping plants for many thousands of acres of irrigated lands in San Bernardino and Riverside Counties, whence are shipped to different sections of the country farm products, including fruits, melons, alfalfa, grain, cotton, and vegetables.

Again, about 2,000 horsepower is being furnished to operate large electrically operated dredges which are employed in keeping silt out of the Imperial Valley canals—a most imperative work.

The so-called desert country and the farming lands served by this company are rapidly increasing their demands for power, and that furnished by this company is the only power available. Attention is also called to the fact that the Imperial Valley Irrigation District alone embraces over 500,000 acres under one irrigation system, and the irrigated area is being enlarged constantly and rapidly. Imperial, Colton, Riverside, El Centro, and 25 other prosperous and growing towns all of which are served in whole or in part by this company. The importance of the service is not measured, however, by the population of these communities, but rather by the importance of the industries served and which are dependent upon this service for their power.

These industries do not benefit alone the local communities where they are carried on, but are a benefit to the entire country. In Kern County we supply power to gold mines. The largest and most important tungsten mines in the United States are situate in the County of Inyo, near Bishop and near Atolia, in San Bernardino County, and they secure their power from this company.

At Searles Lake, in San Bernardino County, is the most important potash deposit in the United States, and upon which the United States largely depends for its supply of potash. The potash plants are now using over 5,000 horsepower and are being enlarged very rapidly. They have no other source of electric supply than that furnished by this company.

Cement mills in San Bernardino County are now using 4,000 horsepower, and those at Oro Grande and Victorville are served by this company.

This company also supplies power to ice factories in the Imperial Valley.

Imperial Valley has increased in population over 300 per cent during the past 10 years.

Practically all of the section mentioned is dependent upon this company for its power supply and none of the towns or cities situated in this territory are in a position to develop hydro energy on their own account.

Mr. RAKER. Will you permit a question right there: Is this company a public service corporation?

Mr. DIXON. It is; I was coming to that.

Mr. RAKER. And does the Railroad Commission fix its rates and charges?

Mr. DIXON. It does. I was just coming to that. This Southern Sierras Power Co., in response to the question of Judge Raker, I will says is and from its incipiency, practically from its incipiency—the operations of this company were begun in 1911, that is to say, the construction—always has been under the jurisdiction of the Railroad Commission of California for rates, securing to the consuming public fair dealing (and you heard Congressman Kettner state here that the people are well satisfied with the company. As a matter of fact, we are very proud of our patrons and we have very, very few complaints), but it is also regulated as to its securities, to protect the investing public. The Southern Sierras Power Co. can not issue a bond until we first apply to the Railroad Commission of the State of California.

And that is not all, gentlemen. The Southern Sierras Power Co. can not roam around the country and do business wherever it will. California is a State of regulated monopolies, as the Members from that State recognize. We have to obtain certificates of public necessity before we can extend our lines into any territory.

Now, to visualize the territory in which we are operating——

Mr. BARBOUR. The railroad commission can also order you to go into a specific territory?

Mr. DIXON. Yes, sir; it can order us to go into a specific territory. It has complete control. Now, I want to say to you gentlemen, in all candor, that a corporation like that is not a mere "private corporation" in a derisive sense, but is hedged about, curbed, and regulated.

This is an immense community or public served by the company. Now, what should be done under the circumstances with reference to the public lands over which you, as Representatives of the Nation, exercise a trust power? Is it a mere matter of numbers? If it be a mere matter of numbers, of course, you ought to favor Los Angeles, because there are 600,000 people there. At least it is stated there are 600,000 people there, and I am not in a position to dispute that.

Mr. VAILE. Speaking for the majority, I can say we are here to protect the rights of the minority as well as the majority.

Mr. DIXON. I believe that is so. But we have 200,000 people up there and we have this immense territory, incomparable and superior to anything that Los Angeles can ever have in an industrial way. As a matter of fact, it looks to me, if the thing were carefully considered by the municipal authorities, instead of wanting to break the backbone of this company in this region, it would foster and aid it, because it is building up what ultimately must be, exclusive of the eastern tourists, the principal backbone of the city of Los Angeles, as every city must have a backbone country to it in order to remain permanently a great and prosperous city.

Now, as I have stated, if you will submit this bill to the duly authorized officer of the Government and ask for a written opinion, he will tell you that this is a present grant, to take effect upon the filing of the maps and absolutely excludes us, this company, for a distance of 135 miles, from making a single branch from our main transmission line unless the city sees fit to consent to our doing so. Now, we submit that we should not be put at the mercy of the city.

I should like you gentlemen to look at these plats which I have prepared, because they will visualize the matter for you. You will see in the upper portion of the green area, which designates the hand covered by this bill, a red line. That red line from a point opposite the words "Fresno County" at the little indentation, and running south to Mexicali, on the border of the State, is the main transmission line of the Southern Sierras Power Co.

From Bishop Creek to San Bernardino, a distance of 238 miles, that line is a steel-tower, high-tension line, costing over one million and a half dollars. And, as you will see from the picture before you, just about 135 miles of its length passes through the territory covered by this bill. And just as sure as you are living men, if this bill is passed unamended, we can not branch out through that 135 miles; and neither the Secretary of Agriculture nor the Secretary of the Interior has the authority to permit us to do so. We are there not only, to use Mr. Taylor's expression, hamstrung, but manhandled and suffocated, unable to do anything else, because——

Mr. RAKER. How did you get across the aqueduct?

Mr. DIXON. I am not acquainted with the exact history, but I know the company had difficulty and they composed the difficulty by some sort of a compromise and settlement; there was some sort of litigation or reframing of the issues in litigation. Mr. Consaul can tell you about that; it was before my time.

The CHAIRMAN. What branch lines have you in contemplation?

Mr. DIXON. I do not know. But I am glad you asked that question. A power system, if I may use an illustration—it is not probably the one that should be used, but the best I can think of for the moment—is comparable to a tree. The power plants are the roots of the tree, the transmission line, which is to be distinguished from the distributing lines, is the trunk of the tree. And from that trunk, as the country expands, branches spread out on either side, which are the distributing lines.

Now you can well understand that a tree, however big it may be, if it has no branches it is nothing, after all, but a pole. And that is what this company's line would be for 135 miles. Is it possible that after we have obtained a permit from the Government of the United States for our transmission line and for which we pay $5 per mile annually, as long as we use it, as a charge, and in addition we pay, in proportion to the capacity of our plants, for the permits for operating them——

Mr. RAKER. Pay to whom?

Mr. DIXON. To the Government of the United States. Why, I want to say to you gentlemen, there is a question of national honor involved here. This company has invested $12,000,000 and it is operating exclusively under permits from the United States and has no grant and never has had. The only kind of a grant it has

is a permit. And in that way these great national resources of the nation are preserved where they are intended to be preserved, to the people of the whole Nation instead of being gobbled up by municipalities or anybody else.

The CHAIRMAN. Have you an amendment which will remove your apprehensions?

Mr. DIXON. Yes, sir; we have some amendments.

The CHAIRMAN. I wish you would take them up and also take up the objections you have to the proposed bill.

Mr. SMITH. Is not your map a little misleading when you say the lands granted by the proposed bill are in green? You do not mean "granted?"

Mr. DIXON. Yes; I mean, just as Judge Raker said—I mean, if you please, that this bill is actually a grant of every available portion of that territory painted green that the city may see fit to select for the next three years.

Mr. VAILE (reading):

> That there is hereby granted to the city of Los Angeles, Calif., * * * all necessary rights of way * * * over and through the public lands of the United States.

Mr. DIXON. I do not mean literally that whole country.

Mr. BARBOUR. To be later qualified by the filing of their maps?

Mr. DIXON. Yes, sir. That is to say, they can later go where they please on that green territory, to the exclusion of everybody else in the world and pick out anything they want; and I will guarantee to you they will pick out every power possibility in it. And when they pick out and file those maps, and, you understand, when those maps are filed and approved, the grant takes effect absolutely as a grant from the United States of America.

(Thereupon, at 12.30 o'clock p. m., a recess was taken until 2.30 o'clock p. m.)

AFTER RECESS.

The committee reconvened at 2.45 o'clock p. m.

STATEMENT OF MR. JOHN R. DIXON—Resumed.

The CHAIRMAN. Judge Dixon, you may resume your statement.

Mr. DIXON. Mr. Chairman and gentlemen, conforming to the suggestion of the chairman, as I understood it, I have formulated briefly our objections in a general way and then the amendments we propose to submit for your consideration. After that, I will make a few additional remarks, not many, because it must be apparent to all of you I am in such physical condition I should not be here anyhow.

The Southern Sierras Power Co., with over $12,000,000 invested, submits that this bill should in fairness be amended in certain respects. Our objections to the bill as it stands may be thus stated:

First, the Government, knowing of the grant to the city, under the act of 1906, granted to this company permission to construct a steel tower transmission line from Bishop Creek to San Bernardino, about 240 miles long, and costing over a million and a half of dollars. The company pays an annual charge for this right of way and, in addition, pays charges for permits covering the power plants, based on their capacity.

For a distance of about 135 miles this transmission line runs through land which would be affected by this bill.

The CHAIRMAN. About what do you pay, Judge, in figures?

Mr. DIXON. For the power plants?

The CHAIRMAN. Yes.

Mr. DIXON. It is a very large sum. During the time of the 50-year lease it is something like $175,000, I think, at present rates, Mr. Chairman; but those permits——

The CHAIRMAN. Paid to the Government?

Mr. DIXON. Paid to the Government.

Mr. RAKER. Per year?

Mr. DIXON. No; that is for the aggregate period. But these permits issued by the Government contain a stipulation that every 10 years the rates are subject to revision as may be prescribed by the Secretary of Agriculture or the Secretary of the Interior, as the case may be; and in 1922 our rates will be subject to revision.

Mr. RAKER. What do you pay for the right of way for the transmission line?

Mr. DIXON. We pay $5 per mile per annum for a 50-year lease.

Mr. ELSTON. That is less than $1,000?

Mr. DIXON. Yes. Now, for a distance of about 135 miles this transmission line runs through land which would be affected by this bill. To that extent, and for a period of at least three years, no official of the Government could permit us to build any branch distributing lines from this main line, and thus one of the obvious main objects of the construction of this line would be partly defeated, although the officials that granted these permits must have contemplated the construction of such branch distributing lines. Without the right to construct distributing branches the company for a distance of 135 miles is left in the same position as an electric light company having a right of way through the streets but without right to connect with the buildings on either side.

Mr. ELSTON. You are left marooned like Mr. Adams' company?

Mr. DIXON. Yes. Secondly, in 1906 Congress passed an act conferring on Los Angeles very extensive special privileges. As an incident to that legislation, all development of the water resources of a great area, all settlements under the homestead law, all forward steps in the development of that great area were stopped for a considerable period. And since then other rights have intervened. Hence, the territory served by this company, with its 200,000 population and with its tremendous economic potentialities, is entitled to at least equal consideration out of the remnant resources, and this public utility company which serves this territory should not be deprived of its present opportunity, under general public land laws, to secure rights of way for power plants and such as are necessary to the appropriation and use of water for power purposes in a section where it has already invested on the faith of Government permits $12,000,000.

Now, the amendments requested by the Southern Sierras Power Co. are as follows, and these are all by way of interlinations in the bill.

On page 3, line 1, after the word "said," insert "lands and." This will make clear the obligation of the city to file a map or maps show-

ing the location and extent of the land to be embraced in the proposed grant, independent of the rights of way.

Mr. RAKER. What line? Just repeat that judge.

Mr. DIXON. On page 3, line 1, after the word "said," insert the words "lands and." I think it will then read, as I recollect it, "lands and rights of way."

Mr. VAILE. "Lands and proposed rights of way."

Mr. DIXON. As I say, this will make clear the obligation of the city to file a map or maps showing the location and extent of the lands to be embraced in the proposed grant independent of the rights of way. You see the act contemplates two things should be granted to the city—some lands as well as some rights of way, and this would obligate the city to plat those lands.

Mr. JOHNSON. Does the Government own all the land there through which it is proposed to go?

Mr. DIXON. Yes; in the forest reserves.

Mr. JOHNSON. There is no private ownership anywhere?

Mr. DIXON. I do not believe there is any private ownership within the territory. There may be some homesteads in there; I am not sure. There may be, and there can be a patented mine within the forest reserves and a patented homestead.

The CHAIRMAN. Some of the lands you refer to are those covering power houses, storage dams, and reservoirs?

Mr. DIXON. Yes; or any lands they propose to have in addition to rights of way. In other words, the object of that is to show by the plat whether it does refer to the power-house sites.

Now, on page 3, in line 11, after the word "homesteads," insert the following:

* * * for rights of way for electrical plants, structures, poles, and lines, for the generation, transmission, and distribution of electrical power, and for poles, structures, and lines for telephone and telegraph purposes and.

Then in line 13, on said page 5, after the word "irrigation," insert "and for electrical power purposes."

The last two amendments will give power and telephone and telegraph companies the right to construct new lines over any land not actually filed on by the city of Los Angeles, just as irrigation companies have such right.

Then, on page 5, in line 16, after the word "the," insert the words "lands and." The purpose of this amendment is to make the act uniform and follows the first amendment suggested in requiring the city to make application for lands desired under the act.

Then, on page 7, add to section 8 the following:

And if in connection with any irrigation or power project, it shall be desired to construct any water conduit, or any power transmission line, or poles, or towers, over or across any land, or rights of way, acquired by said city under the terms of this act, the person, association, or corporation desiring to construct any such conduit, or line, shall have the right to proceed under the laws of the State of California to condemn such right of way, provided that the same shall not be so used as to prevent or interfere with the proper use by said city of the rights acquired hereunder: *Provided, however*, That the person, association, or corporation desiring to so proceed shall first make application to the Secretary of the Interior or to the Secretary of Agriculture, if within his jurisdiction, for such grant, permit, or easement as may be required in and about the premises, and in considering any such application, sad Secretaries shall consider and adjudicate the same in the same manner as though said city of Los Angeles were not concerned.

Mr. JOHNSON. Why do you say "Secretary of the Interior or the Secretary of Agriculture?"

Mr. DIXON. The reason is that in 1905 the Congress divided the jurisdiction of the two departments; the Secretary of Agriculture having jurisdiction over the forest reserves of the United States, and the Secretary of the Interior over the public lands of the United States.

The CHAIRMAN. Your last amendment is more liberal toward the city than their proposed amendment. You require them to commence condemnation proceedings?

Mr. ELSTON. You permit yourselves to commence a condemnation suit or to conduct a suit at law, whereas the amendment that is agreed to by Mr. Mathews permits you to make such crossings on the consent of the Secretary of the Interior. You are proposing a harder way to go than he is willing to have you do. In other words, Judge, do you not think the proposed amendment agreed to by Mr. Mathews this morning gives you everything you want so far as crossings are concerned?

Mr. DIXON. I do not. Of course, I would not want to dispute that matter without some study, without more thorough study of the amendment; but as I conceive it to be, to be frank with you, Mr. Elston, that amendment does not amount to anything; we can not do anything for three years. That is the viciousness of it; the vice of it is it does not recognize we can apply for a right of way either for a power plant or any other purpose.

Mr. ELSTON. Yes; I think that is true.

Mr. DIXON. For three years.

Mr. ELSTON. Because the city could prevent your even locating such lines and could much more prevent your crossing any of those rights of way they have by not filling their applications.

Mr. DIXON. Certainly.

Mr. ELSTON. And, to that extent, delay any crossing and delay your works, and delay your crossing any works which they had erected. They can delay that until 1922. I think that is true.

The CHAIRMAN. What is the law of California, do you know, as to one corporation condemning the property of another, to be used for public purposes?

Mr. DIXON. The general law is that a condemnation proceeding may be entertained in California for any higher use; that is, where there are two public uses the law recognizes the higher use.

The CHAIRMAN. Is irrigation the highest use there?

Mr. DIXON. No; irrigation is not considered the highest use. Domestic purposes would be the highest use and water consumption in a city would be a higher use.

The CHAIRMAN. Does irrigation come next there?

Mr. DIXON. I believe, Mr. Chairman, that they really hold in California, as nearly as I can get at it—there is no uniformity of the decisions about it; some of the superior courts have held that power is a higher use in peculiar exigencies; that is to say, where power is to be used in a community, like a mining camp, where the agricultural interests around it are scattered and not very important, in that event the power use is considered the higher use. On the

other hand, where it is a rich and flourishing community, where the farms are improved, the rule might be reversed.

The CHAIRMAN. Then can one corporation condemn the property of a second corporation when the use of the property is absolutely necessary to the second corporation?

Mr. DIXON. Not unless it is a higher use. I may say, in that connection, that whilst it is a remote thing to be considered, these permits from the United States also, in addition to recapture by the Government, permit the condemnation of our system by municipalities which they serve. The object of the law is to enable the people to get the property in some way.

Now, if the city will not accept the amendments, this is a test I have to suggest and this is the difference in the law—if the city will not accept the amendments I have suggested, then it is absolutely true as I stated this morning and as I shall subsequently state this afternoon; that is, as to the real design of the city. The reason is by these amendments the grant to the city is changed in one respect, and in one respect only, that it it does not give the exclusive option over this great territory, but leaves it open to us (and as we think we ought to be entitled to) to go in and participate in these natural resources under the general laws of the United States—and not only us but any other power company—under the general laws of the United States. To put it in another form, the city gets a grant to validate the title to its aqueduct as it is built on the ground. Secondly, it gets a grant of right of way 250 feet in extent, although heretofore they have been applied for and permits granted for a lesser area. It also gives a right to the city to have a grant of any rights that it may apply for under the general law in the future; but it does not give it the advantage over us in that it can tie up the whole thing and pick out the whole thing and exclude us.

Mr. ELSTON. Looking ahead, as far as you can, can you say where the possible zones of conflict will come? In that connection, keep in mind the statement made by Mr. Mathews that 90 per cent of the power which the city of Los Angeles expects to develop is already controlled as to sites and lands and rights already vested in such a way that, if the city is not permitted under this bill to do what it asks, no other corporation can ever come in and enjoy those same rights by reason of the strategic position which the city now occupies in regard to holdings. If that is true you ought to be able to figure out right now the possible zones of conflict and tell us whether it is not a theoretical thing you are quarreling over and really amounts to nothing at all. You know where rights are acquired and you know what you are going to develop and you know what the city has already acquired and you can not say now about what localities you would like to be permitted in and in what localities you would be perfectly willing to have the city have a free hand.

Mr. DIXON. That is a very hard question for to answer, if you please, gentlemen, because this is a very wide area of country. All I know about it, or all any attorney can know about it, is what the engineers of the company tell him. Now, I do not for one minute question Mr. Mathews in his statement there are only 10 per cent left. I think Mr. Mathews believes that and truly believes it. I am

not disputing him. On the other hand my information from our engineers is that there is a great deal more than 10 per cent or 20 per cent, either. But the point is, whether it be 20 per cent or 10 per cent, why should this company, which has received no such great gift from the Nation as Los Angeles has already received, be barred from having an equal chance. We want no preference rights whatever, either against Los Angeles or anybody else.

Mr. ELSTON. Of course, that is all right as a mere principle, but what we are trying to solve is a practical question and, if it is a mere matter of settlement of a theory here, we would not be so much concerned. Now, just direct yourself to this map here.

Mr. DIXON. Yes.

Mr. ELSTON. Am I putting this pointer about at the place where the intake of the city is?

Mr. DIXON. I could not tell. Mr. Mathews could tell.

Mr. CONSAUL. About 40 miles above Owens Lake is where the city intake comes, Mr. Elston.

Mr. ELSTON. Here is Owens Lake, and about 40 miles above might be up in here [indicating on map]?

Mr. DIXON. Yes.

Mr. ELSTON. With respect to the other territory below, where rests your contention that they can interfere with you in any respect as to appropriations or rights of way, it seems to me it is largely theoretical because any development made by them below their intake, which is 40 miles above the lake, will be made along the line of their aqueduct. There are no water resources on either side where they could take up water.

Mr. DIXON. I would not want to say that; I would not want to admit it, either. I would not want to admit that for a moment. What do they cover that land in there for? Let me ask you that question. Why did not the city of Los Angeles designate a strip of some definite width to cover what they propose to use, instead of taking 2,500,000 acres of land?

Mr. ELSTON. Have you been over this country yourself?

Mr. DIXON. I have.

Mr. ELSTON. Are there any water resources here to the east or any water resources to the west that are not already appropriated, so far as the water is concerned, and where reservoir and power sites are not already taken, so far as those positions are concerned?

Mr. DIXON. Let me give you an example, if you will indulge me. Mr. Mathews spoke yesterday about Big Pine and Baker Creeks.

Mr. ELSTON. Are they above the intake?

Mr. DIXON. Yes. The facts in connection with Big Pine and Baker Creeks are these: The city does not by an arrangement with the people up there—by making a contract with the people which he referred to—necessarily own those water rights. In the year 1914 the Southern Sierras Power Co. applied to the Forest Service of the United States for a temporary permit—mind you, this was five years ago—for a temporary permit to enable it to determine whether or not the project was feasible for the development of those streams. The Forest Service granted that permit and the company, by its engineers, proceeded to make the necessary survey. And whilst it did not expend any great sum of money, yet it expended an appre-

ciable sum of money in ascertaining whether that project was feasible. When it found that it was feasible it immediately applied to the Forest Service of the United States for a permanent permit to develop those waters. Mind you, our high power line I have referred to passes immediately over that creek. We were met by the Forest Service then with this proposition: "We will not entertain your application for a permanent permit (although they had given us the temporary one) until you apply to the State Water Commission of California and get a permit from it." The reason why we did not apply to the State water commission of California in the first instance was Attorney General Bonaparte had given an opinion that the nonnavigable waters in the forest reserves of the United States are withdrawn with the lands and are a part of the lands, and can only be appropriated under State laws for certain specific purposes mentioned in the act of June 4, 1897 (of which power is not one), and that power was excluded. In other words, as to power, the United States has jurisdiction and the State has not.

Mr. ELSTON. Then, in other words, the State has placed in the hands of the city of Los Angeles an option on this project?

Mr. DIXON. I wanted to tell you the sequel of that; where it stands to-day. A hearing was held by the State water commission at Big Pine, Calif., one of the little villages up in that section, which I attended, and after a full hearing the matter was taken under advisement. Months elapsed. The equities were with us. We were there first. The commission by its delay, seemed to recognize that fact. Of course, I would not attempt to say, as a matter of fact, that that was the reason, but for some reason or other it delayed and delayed and would not act on our application for this permit which the Forest Service demanded that we should first get.

In the meantime the people of the State of California initiated a bill to repeal a provision of the State water-commission act, as it then existed, to the effect that the State water commission could reject any applications when the public interest so required. In other words, it gave it an arbitrary and tyrannical discretion.

Now, I want to call your attention to a peculiar thing. Mr. Huber has furnished me with the data from San Francisco. After that bill had been submitted to the people and their voice had been heard—it had not become an effective law, but the people's voice had been heard—they determined that the water commission of California, one of whom was from Los Angeles, should have no power to say that an application should be turned down when the public interest so required; that is, leaving it to them so to say. The law had subsequently been repealed. But just before it became effective this State water commission had the audacity to deny our application to appropriate the water on Big Pine Creek and put it on that sole ground, because the public interest so required, the people having in the meantime held that they should never have such power. They still, technically, had that power because the new law had not gone in force.

On top of that the city of Los Angeles made an application to the State Water Commission of California for these same creeks, and now claims priority by virtue of getting in ahead of us. Now, we want to see about that; we do not know that that is true——

The CHAIRMAN. Judge, what is your potential power development now with the water rights you have?

Mr. DIXON. In that immediate region? I think probably 30,000 horsepower.

The CHAIRMAN. How much are you generating?

Mr. DIXON. Practically that much, I imagine. Gentlemen, we have developed more thoroughly than any company in the world, not only in the United States. We have one creek, Bishop Creek, with five plants on it and room for one more, which we are going to put up there, so we will use the water of that little creek over six times in a distance of 8 miles. When I say we do that more thoroughly than any other company in the world there was an article on the subject of these plants in an electrical journal of comparatively recent date, which stated that to be the fact. Of course, I only know it in that way. But I am telling you what the physical facts are. In a distance of 8 miles we have five plants and are going to construct another, and have the permit from the Government of the United States and the water is used over six times, and that is the reason——

The CHAIRMAN. Have you a market for all of this 30,000 horsepower?

Mr. DIXON. Yes, sir. Well, we have a very good market. Of course, the electrical companies, you understand, must have some surplus energy or they never could meet the demands of new customers. You can not tie it right down to what they have. Sometimes we have a demand greater than we can serve; at other times we have not.

The CHAIRMAN. If you are selling your full potential development there, how are you going to supply these other places that you think you may need the crossings for?

Mr. DIXON. That is one of the very reasons why we want additional opportunities to acquire water rights and power sites. That is why we want to expand, to grow with the country. We can not stand still, because if we stand still the country and ourselves will both stop.

The CHAIRMAN. In speaking of your full potential development, I mean the maximum possible development.

Mr. DIXON. Oh, I am told—I can only tell you about that which the engineers tell us, that we can develop that much power in that basin.

The CHAIRMAN. Are there any towns of any considerable size, or villages, along this area to be granted to the city of Los Angeles that you are supplying now?

Mr. DIXON. Why, I do not think there are; but you never can tell in a country like that. I will give you an instance that occurred with our allied company——

The CHAIRMAN. There is no pressing demand, then, for further power along the line of this area, proposed to be granted to the State?

Mr. DIXON. Well, I would not say that. I know of no pressing demand, but it may occur at any time. Let me give you an idea. That is a mineral country. The towns of Tonopah and Goldfield are about 20 miles apart, supplied by the Nevada-California Power Co. It is a matter of general notoriety to the country at large that Gold-

field has not only seen its best days, but has, to all intents and purposes, expired. It is also a matter of general notoriety that the ore reserves have become so reduced in Tonopah that it would be only a matter of very few years at best before that country will be in the same position as Goldfield.

Were those two camps the only things on which the Nevada-California Power Co. could depend, it necessarily follows that it would have to withdraw its lines from that section of Nevada within the next two or three years; but there is where the strange thing occurred. Less than a year ago and within five miles of the town of Tonopah, and actually on the road leading to Goldfield, they opened up a mine now known as the Divide, and we have run our lines to that mine. Experts who are acquainted with the conditions and know about mining matters say that the Divide is so much bigger than either Tonopah or Goldfield ever was that it will actually rival Virginia City in her palmiest days. I only cite that to show that anything can occur in that kind of country.

The CHAIRMAN. That is over in Nevada?

Mr. DIXON. Yes, sir; but not very far away.

The CHAIRMAN. Do you think you will need power sites and reservoir sites in this area proposed to be granted to the city of Los Angeles?

Mr. DIXON. We certainly do, and we will need them for service in California. I merely referred to the Nevada-California Power Co. as an illustration, but what we are interested in here today is the California end of the business—the Southern Sierras Power Co.

The CHAIRMAN. Those power sites you desire in order to use your water over again that you are using now?

Mr. DIXON. Oh, no; you misunderstand me. We want the opportunity on those little creeks and branches to develop them like we have developed Bishop Creek.

The CHAIRMAN. Have you any approved filings on those creeks that you refer to?

Mr. DIXON. No; and that is the reason why we should have this opportunity. If we were trying to beat the city of Los Angeles out of anything it would be a different proposition, but we have not any feeling except on this Big Pine Creek. There is a conflict there.

The CHAIRMAN. Does Los Angeles also want the opportunity to take the water from the creeks that you desire to appropriate?

Mr. DIXON. It does at Big Pine, I imagine. There is a conflict of interest.

The CHAIRMAN. You both desire the same water from Big Pine Creek?

Mr. DIXON. Yes. At present Los Angeles has the best of it, apparently. That is to say, Mr. Mathews stated here—and I have implicit confidence in his statements—that they have entered into an arrangement with the people up there to let them have the water.

The CHAIRMAN. How much water is there in Big Pine?

Mr. DIXON. That creek can be developed to a capacity half as great as Bishop Creek, or possibly more.

The CHAIRMAN. How much in second-feet is that?

Mr. DIXON. I do not know. Do you remember, Mr. Mathews?

Mr. MATHEWS. As to the flow at Big Pine?

Mr. DIXON. Yes.

Mr. MATHEWS. No; I do not remember what the flow of that stream is.

Mr. MAYS. How much does Bishop Creek have?

Mr. DIXON. I do not know. I remember that at plant 4 on Bishop Creek there is 1,080 feet head.

Mr. MATHEWS. I think they generally regard Bishop Creek as a 90 second-foot stream.

Mr. RAKER. Let me ask you this question: From the divide down to within, say, 50 miles of Mount Whitney, which would be even south of Owens Lake, all of the possibilities for reservoir sites within this territory lie under and along the east slope of the Sierra Nevada Mountains?

Mr. DIXON. Yes, sir.

Mr. RAKER. And there is no other source of water in that territory?

Mr. DIXON. Not that I know of; not that I personally know of. I have not been through that country. I have merely passed up and down it, and what I know about it is what they tell me. That is, I have made no critical examination and know very little about it.

The CHAIRMAN. Was your line in there before the aqueduct was built?

Mr. DIXON. Our line was put in while the aqueduct was in process of construction.

The CHAIRMAN. Did you have any trouble about getting across then?

Mr. DIXON. I was just coming to that. We did. I ascertained during the noon hour, and the facts in connection with that were these:

There was a Silver Lake Co., an allied company of the Southern Sierras Power Co., that had three suits pending against the city of Los Angeles. When the Southern Sierras Power Co. wanted to get a right of way over the city lands, why—very properly, as far as that is concerned, under the circumstances—they demanded a consideration, and one of the considerations was that two of those suits should be dismissed; that is, that the Southern Sierras Power Co. should cause the Silver Lake Co. to dismiss two of its suits, and reframe the issue in the third, and in addition to that we paid to the city of Los Angeles for the land you gave them the same price that the Government charges us—$5 a mile—over that territory. That is what we pay them now. That is right, is it not, Mr. Mathews?

Mr. MATHEWS. No; the land we bought cost us $50 a mile—private land.

Mr. DIXON. I mean, our payment to you is $5 a mile per annum?

Mr. MATHEWS. Yes, sir.

The CHAIRMAN. That is a yearly rental of $5 a mile.

Mr. MATHEWS. No; it was $50 a mile for the granted right of way, for 30 miles.

The CHAIRMAN. That was the full payment?

Mr. MATHEWS. The full payment; that ended it.

Mr. DIXON. $1,500.

Mr. MATHEWS. I think that is about it.

Mr. DIXON. At any rate we paid a consideration, and, as I say, the litigation resulted in favor of the city on the other end of the

thing. Now, the point I would like to make here is this: Mr. Mathews stated here—and I am in very much the same position; in fact, in entirely the same position. I am a paid man like he is. Both of us are liable to be fired. We do not know who is going to be in control in the city of Los Angeles 60 days ahead, nor does he. The point is that we should not be at the mercy of the city of Los Angeles in doing anything in connection with the public domain of the United States.

I was not refering, however, to the Big Pine situation to stir up any ill feeling. It is going to be in a friendly way, an amicable suit, as it ought to be. But I do not think Mr. Mathews had reference to that when we were talking about the 10 per cent, because our engineers spoke of a very much greater body of water in that section of the country. And as I say, it should be borne in mind that this city has received the largest gratuity that any city in America ever received from the public resources of the United States, and we have received nothing except what we pay for, temporary permits. It does seem, inasmuch as we, so far as the power end of this thing is concerned, have spent much more money than the city in the upper portion of this area, which is the only one we are interested in; we are not interested in that portion running through Los Angeles——

Mr. ELSTON. San Francisco was mentioned. Of course, the Hetch Hetchy is a tremendous project. Were not they given those rights?

Mr. RAKER. No; they were given a small territory and they paid for it.

Mr. ELSTON. You mean to say that San Francisco has not been dealt with as liberally as Los Angeles?

Mr. RAKER. Oh, entirely different. They get the right of way to the Hetch Hetchy, and the right down through, and then they pay a very large sum for the purpose of building up the territory, the general territory, outside of the territory they use for reservoir sites.

Mr. ELSTON. Of course, their project when developed will be a tremendous thing, and the major part of it they got from the Government.

Mr. RAKER. Oh, yes.

Let me ask you this, Judge Dixon. You are paying a rental to the Government for the use of the public domain?

Mr. DIXON. Yes, sir.

Mr. RAKER. And the city of Los Angeles is paying none?

Mr. DIXON. That is true.

Mr. RAKER. Under this proposed grant and under the prior grant they are permitted to sell hydroelectric energy to any of those cities adjoining Los Angeles? I mean the city of Los Angeles is?

Mr. DIXON. That is the contention of Los Angeles, that she has that right.

Mr. RAKER. They are selling the power now to what city? Pasadena? Suppose you run your line into Pasadena—I will not say Pasadena. Suppose you run your line into the city of Pomona, to furnish the city of Pomona with electric energy. Then the city of

Ponomoa would have to pay more to your company than they would have to pay to Los Angeles.

Mr. DIXON. I do not think so.

Mr. RAKER. Or you would absorb the amount you would pay for rentals? In other words, the city of Los Angeles would be better off to furnish the city of Pomona with electric power than your company would?

Mr. DIXON. I do not think so.

Mr. ELSTON. At the same rates?

Mr. DIXON. At the same rates.

Mr. ELSTON. Why, Judge?

Mr. DIXON. Of course, I do not want to give any offense to anyone.

Mr. RAKER. No. That is the reason I am seeking this information.

Mr. DIXON. I want to say to you, gentlemen, frankly, that it is not possible for governmental agencies to conduct enterprises of that sort with the same economy as under private management, and our company can sell its current—of course, they can undersell us when they have a surplus, when there is nothing else to use it for—but I mean when there is fair and square competition the private company will beat a city public utility.

Mr. RAKER. Suppose the city of Los Angeles extends its power lines over to Pomona to furnish that city with hydroelectric energy, and you extend your lines to the same city. You pay a royalty or rental for the right to run your line?

Mr. DIXON. Yes, sir.

Mr. RAKER. And the city of Los Angeles pays none?

Mr. DIXON. Yes, sir.

Mr. RAKER. Then, other things being equal, you would either have to absorb that difference or put it on the consumer, would you not?

Mr. DIXON. Oh, yes; there is no doubt about that.

Mr. RAKER. Well, then, under those conditions the city could furnish the inhabitants of Pomona with cheaper electricity than you could?

Mr. VAILE. The point is, other things are not equal.

The CHAIRMAN. What is the total of that royalty?

Mr. DIXON. The total of the line?

The CHAIRMAN. Yes, sir.

Mr. DIXON. The last time I looked over the figures, the plants and the line—that is what you mean, sir?

The CHAIRMAN. Yes.

Mr. DIXON. Between $100,000 and $200,000.

The CHAIRMAN. A year?

Mr. DIXON. No; during the term. But you must recollect that is subject to modification, and the evident design of the Government is either to lower or increase it, according to circumstances. In other words, the Government reserves the right, by the permit, every 10 years to modify the charges to meet the then existing conditions.

The CHAIRMAN. Then you would have to absorb about $10,000 a year?

Mr. DIXON. Yes.

The CHAIRMAN. Among all these people?

Mr. DIXON. Yes.

Mr. RAKER. I was speaking of it in another way. If you do not absorb it, the cities of San Bernardino, Riverside, Redlands, Colton, and other cities obtaining electric energy from your company would have to pay more for their electric energy than the cities that are furnished electric energy from Los Angeles?

The CHAIRMAN. About a cent a head a year.

Mr. DIXON. That is, assuming those facts. Perhaps I might call your attention to something. They have a very peculiar way of doing business in some of the California towns. Our company and the Southern California Edison Power Co. supply in part the city of Riverside. The city has a steam plant, which it has made a breakdown or emergency plant now and does not usually utilize. That city takes the current from the Edison Co. and our company and sells it at a profit, and a patron of the city called my attention to the fact that the city was evidently making a profit as it was charging more for it than it was paying. I said, "Well, it is entitled to do it. It is your city." "But," he said, "they are also making us pay for the same thing in taxes."

Mr. RAKER. I think you are under some misapprehension as to my question. If the cities have to absorb this difference to obtain the electric energy from your company, they are under a disadvantage as against the cities that obtain the electric energy from the city of Los Angeles, whatever amount it might be?

Mr. DIXON. Yes.

Mr. RAKER. Is not that right?

Mr. DIXON. Yes——

Mr. RAKER. Then wherever the city of Los Angeles is not injured or interfered with in its development, to the end that the other cities in California might be properly supplied and might live and exist, every effort should be made to the end that both might receive this benefit from the Government?

Mr. DIXON. Undoubtedly. I have not formulated it in such a way as to impress you gentlemen with what you have just said, but that was the intent of my argument. If any concession is to be granted at all now—although we do not ask any favors; we only ask a fair field—in view of the fact that the city of Los Angeles has had so much bounty from the Government, the concession should be granted to that territory which has not received anything yet and which will have an additional charge imposed upon it by virtue of the fact that this service will have to pay the United States a tax. That, I suppose, is what you have in mind.

Now, I want to call your attention for a moment to the last section of this act, because I can see what is ahead of me, but I can not see what is behind me. Something may be said about that.

The provision there which Mr. Taylor said he insisted upon—and very properly, and I believe you did also, Judge Raker—is to be found in most of the general land acts of the United States, and it is effective as to irrigation and domestic purposes and municipal purposes. But the point I want to make is that that does not help us out at all as to power. The State's power is nullified by this act, if you pass it.

I was permitted by Chief Justice White to submit a brief as amicus curiæ in the case of the United States versus Utah Light & Power

Co., decided about two years ago by the Supreme Court of the United States. It was decided in that case, as all you attorneys know, that the old pioneer acts of 1866 to 1870, under which this great western country was developed, were primitive and had been superseded by the act of May 5, 1896, which in turn had been superseded by the act of June 15, 1901, the present power act in force.

The effect of that decision, if you will read it, is to say that really the way the United States preserves its authority over the nonnavigable streams so far as power purposes are concerned is by control of the land, because it is necessary to get access to the stream. If you have control of the land, nobody can get any water rights. That is the wicked feature of this act. It turns over this land to the city of Los Angeles for three years and not until the expiration of three years can anyone get any access to the streams. So if an application were made to the State Water Commission of California it could not grant the application in the face of this act; it would be absolutely powerless. They would say, "Show us where you can get to the streams"——

Mr. RAKER. Well, they may call that act of 1866 primitive; nevertheless there has been more development under that act than there has been or ever will be under all the acts this Congress or any other Congress will pass.

Mr. DIXON. That was not my language, you understand. I indulged in another's thought, Judge. I argued to the court that that act had developed the greatest empire in the world.

The CHAIRMAN. That act simply recognized what they had already been doing, did it not?

Mr. DIXON. Exactly. That was the first act whereby Congress conferred power upon States to regulate streams. There has been contention among jurists as to how that originated, but the truth about it is that the first man in this country to establish the doctrine of what is known as the priority law of appropriation was Judge Moses Hallett—from my own State and the State from which Mr. Taylor comes—and he founded it on the law of necessity. The case is reported in the Fourth Colorado. He was one of the first judges in this country to follow the rules of the miners, and that became a sort of law, the custom of the country. Then when the act of 1866 came in it was merely a recognition of the rules and regulations and decisions of courts.

Mr. RAKER. Judge, have you ever thought about this proposition in connection with this bill, that while it originally tried to take the territory in which I live, when you are reserving practically all of it and just leaving us fellows to exist that are in there, you and all others, no matter who they might be, ought to contribute something to our public roads and schools in that territory through taxation?

Mr. DIXON. I want to tell you in that respect that no company—I am glad you called attention to it—has a more severe tax imposed on it in the matter of roads than this same company, or its allied company, the Nevada-California Power Co. As a condition of our permits we are required not only to repair, but we are required to build the road, we are required to maintain it. We employed an army of Greeks to build it. It is miles long, leading up to our reser-

voirs, one of which is capable of holding 13,000 acre-feet. People flock up there in the summer time and use it as a resort. We not only have to pay taxes to the county, but have to maintain that road.

Mr. RAKER. What about the other proposition that those who desire to gain the remaining part of our territory in the mountains—that there is always more or less joshing about—taking it down to the large cities, that they ought at least to contribute something to the lands they withhold from entry and pay something for our public roads and schools in the counties where they take our lands?

Mr. DIXON. I should say they ought to, yes. But referring to that matter of taxation, I want to call your attention to something as it is reported to me. Mr. Mathews can correct me if I am wrong about it, because I do not personally know. I have heard it stated that while this aqueduct passes through two or three counties beyond the exterior limits of the city of Los Angeles, the city of Los Angeles does not pay a dollar for the support of the county governments along its whole line.

Mr. MATHEWS. The constitution specifically exempts it.

Mr. DIXON. I am talking about the granted land that was granted by the Government. They told me that up there. I do not know anything about it.

Mr. MATHEWS. The constitution exempts any public works.

Mr. ELSTON. Judge, have you got to the point where you can sum up and state exactly what the effect of your amendment on the bill will be; that is, just where it leaves the city and where it leaves you?

Mr. DIXON. I will be very glad to do that——

Mr. ELSTON. All in the light of the express desires of the city, to see whether your desires conflict with what they wish to do.

Mr. DIXON. I shall be very glad to recapitulate, but before I do that I want to give this thought to the committee. It may be strained, but still I want to throw out the thought. If Los Angeles can come here and get a bill like this passed through Congress, what is there to prevent a dozen or half a dozen cities in the United States from absorbing all the power resources left on the public domain? Because this land, some of it, is 250 miles from the city, and it is just as feasible for a number of western cities to do the same thing. It is a dangerous precedent. I say, if the city of Los Angeles can have a bill like this passed, unamended, a dozen cities might take all the resources.

Mr. VAILE. It might be the solution of our water situation in Denver, might it not?

Mr. DIXON. Now, I will recapitulate. With our amendments, Los Angeles will secure a grant curing any defect in the line of its aqueduct as built. Second, she will require a grant 250 feet wide covering all permitted entries that she has made. She will acquire a grant——

Mr. RAKER. Before you leave the second. Do you intend to convey to the committee that Los Angeles can apply for another right of way paralleling its aqueduct, as well as branches, for a strip of land 250 feet wide over all this public land for its whole lines?

Mr. DIXON. No; I do not mean that. I mean, Los Angeles has availed herself of the same privileges we have under the general legislation of Congress, and has made application for and has ob-

tained doubtless a number of permits. Those permits are more diminutive in extent than the 250 feet. The effect of this bill, as I understood Mr. Mathews, was to have the grant extend that permit to 250 feet and give them a good title so they could sell bonds.

Now, my amendments do not interfere with either of those things. That is to say, they enable Los Angeles to have a grant conforming to the acqueduct as it is built. No one should object to that. They enable Los Angeles to have a grant instead of permissive rights, and extend those rights so that they shall be 250 feet wide. We do not play the dog-in-the-manger act; we can not get that, but we do not object to it. They permit Los Angeles, although we can not do it, to obtain a grant for all permissive rights she may have in the future, which shall extend 250 feet wide.

But what they do prevent Los Angeles from doing is the holding the land to the exclusion of ourselves or anybody else. They keep the general land laws of the United States in operation so that we can make an application and get whatever we can.

The CHAIRMAN. That is for the three-year period, is it not?

Mr. DIXON. Yes.

Mr. ELSTON. That does not permit you though, even though you should make application for the same land prior to the time the city of Los Angeles does, from making another application for the same time before your application is approved and then bringing the matter up to the Secretary of the Interior?

Mr. DIXON. It might be.

Mr. ELSTON. But the fact that you have the right here, under your amendments, to make filings does not give you absolute authority? It can be set aside by the decision of the Secretary of the Interior?

Mr. DIXON. Not at all; that is right.

Mr. RAKER. In that connection, what other companies are in that territory seeking rights of way for the development of hydroelectric energy besides your own—in this general territory covered by this bill?

Mr. DIXON. I think no other; I know of no other except the Nevada-California Power Co.

Mr. RAKER. Your company is known as what?

Mr. DIXON. The Southern Sierras Power Co.

Mr. RAKER. And Mr. Adams's company is known as the Mono Power Co. Now, Judge, so that the committee will have it, will you just file at this point a list of the president, vice presidents, secretary, directors, etc., of your company, so that they will appear in the record?

Mr. DIXON. So far as I can recollect them.

Mr. RAKER. You can get them, can you not?

Mr. DIXON. Oh, certainly; I will furnish the committee with that. But it is not necessary that I should do it to-day, is it?

Mr. RAKER. No; when you correct your notes.

The CHAIRMAN. Without objection, that will be done.

Mr. DIXON. Of course, I can enumerate most of them now.

The CHAIRMAN. Enumerate those you can remember.

Mr. DIXON. The president of the company is Mr. Guilford Wood, of Denver, Colo. The first vice president is William E. Porter, of Denver, Colo. The second vice president and general manager is Mr. A. B. West, of Riverside, Calif.

I think, Judge, I had better ascertain those names and give them to you correctly.

The following list was prepared and filed later with the clerk of the committee for insertion in the record of hearings:

Southern Sierras Power Co.: President, Guilford S. Wood; vice presidents, W. E. Porter, Arthur B. West, E. S. Kassler, Lawrence C. Phipps, jr.; treasurer, Lawrence C. Phipps, jr.; secretary, W. Sherman Fisher; directors, W. E. Porter, E. S. Kassler, Guilford S. Wood, George E. Cranmer, W. Sherman Fisher, Arthus B. West, Lawrence C. Phipps, jr.

Nevada California Power Co. (having works in California since 1904, but serving only Nevada territory): President, W. E. Porter; vice presidents, Guilford S. Wood, Arthus B. West, Lawence C. Phipps, jr., E. S. Kassler; treasurer, Lawrence C. Phipps, jr.; secretary, W. Sherman Fisher; trustees, W. E. Porter, Guilford S. Wood, Arthur B. West, S. N. Hicks, Lawrence C. Phipps, jr., E. S. Kassler, George E. Cranmer.

The post-office addresses of all the above with the exception of Arthur B. West is Denver, Colo.; that of Mr. Arthur B. West is Riverside, Calif.

The CHAIRMAN. Have you any common directors with the Mono Power Co.?

Mr. DIXON. With Mr. Adams's company?

The CHAIRMAN. Yes.

Mr. DIXON. None at all; none that I know of.

Mr. ELSTON. No common stockholders, so far as you know?

Mr. DIXON. None at all, so far as I know.

The CHAIRMAN. Judge, you spoke this morning of this act being a grant in presenti. I wish you would explain the difference between an act in presenti and an act in futuro and what difference it makes.

Mr. DIXON. It makes this difference. A grant in presenti, as in this case, is where the grant, emanating from the United States and conditioned upon the performance of a condition precedent, relates back to the time of the act, so that when these maps are filed within three years and approved by the Secretary of the Interior the title relates back.

The CHAIRMAN. And on the performance of the condition precedent, every right that has intervened is obliterated?

Mr. DIXON. That is right.

The CHAIRMAN. Now, what is the other?

Mr. DIXON. The other is where the grant does not take place until some time in the future.

The CHAIRMAN. And any intervening rights would then attach?

Mr. DIXON. They would then attach.

Mr. RAKER. Just to carry this other point a little further, is there any common stock ownership between your company and the Edison Co. in southern California?

Mr. DIXON. Not a bit.

Mr. RAKER. Through directors or otherwise?

Mr. DIXON. Not a bit. There is an arrangement. The latest working arrangement we have with the Edison Co. is this: The city of Los Angeles has two little plants, one on Division Creek and one on Cottonwood Creek, up in that country, whereby they serve two towns, Independence and Lone Pine. Those plants, I think, were erected by the city originally for the construction purposes of their great acqueduct. Recently the city completed another small plant at Haiwee Reservoir of about 1,050-kilowatt capacity, which would be

about 1,300 horsepower. It had another line attached to that, but I think that has been built since. At any rate, an arrangement has been made between our company, the Southern Sierras Power Co., and the Southern California Edison Co. whereby the product of the city's Haiwee plant is taken over our transmission line that I have spoken about down to Colton, and there delivered to the Edison Co., which in turn takes it over for the city. Our compensation is from the Edison Co.

Mr. RAKER. The city of Los Angeles turns it over to the Edison Co.?

Mr. DIXON. No; it is the other way. The city generates this power, but it has no way to get it down. We take it and turn it over to the Edison Co. for the city. We transport it for the Edison Co.

Mr. RAKER. How does the Edison Co. get it if it belongs to Los Angeles?

Mr. DIXON. Well, the Edison Co. and Los Angeles have an agreement.

Mr. RAKER. That is what I say—the Edison Co. gets it from Los Angeles?

Mr. DIXON. Yes.

Mr. VAILE. They buy it from Los Angeles, and his company is a carrier.

Mr. RAKER. The city of Los Angeles disposes of it in the first instance——

Mr. MATHEWS. We turn it over to Judge Dixon's company to be delivered to the Edison Co. at Colton, and there they take it and carry it down for us.

Mr. MAYS. Are your transmission lines a common carrier?

Mr. DIXON. No; but it is a powerful line, and we are able to take it, and we are glad to assist the city.

Mr. MATHEWS. That power is used by the city of Los Angeles. It goes over their lines.

Mr. RAKER. The city of Los Angeles has an arrangement with the Edison Co.?

Mr. DIXON. Yes, sir; of some sort.

Mr. RAKER. Now, you transmit this over your line for the city of Los Angeles and the Edison Power Co. to the Edison Power Co. at Colton?

Mr. DIXON. That is right.

Mr. RAKER. Is there any working arrangement, through the directorates or otherwise, between the Southern California Power Co.——

Mr. MATHEWS. It belongs to the Edison Co., and the Edison Co. delivers it to the city of Los Angeles in the city for use in the city.

Mr. DIXON. That is what I stated.

Mr. MATHEWS. I know you said that, but the Judge did not seem to catch the idea.

Mr. RAKER. Let us get this straight. It is delivered by you to the Edison Power Co. at Colton?

Mr. DIXON. Yes, sir.

Mr. RAKER. They then retransmit it to Los Angeles and deliver it to the city?

Mr. DIXON. Yes, sir; for use in Los Angeles.

Mr. RAKER. Now, is there any connection between your company and the Nevada Power Co.?

Mr. DIXON. No connection otherwise than that some of the same people are interested in both companies; and I may say frankly that most of them are. The Nevada-California Power Co. is really the parent company. It might be interesting for you to know why these Denver men are interested in this——

Mr. RAKER. I wanted to know whether there was a general combination of all the power companies in southern California.

Mr. DIXON. Oh, no. We have our own company. There are about eight allied companies. The holding company is the California-Nevada Electric Corporation. The Southern Sierras Power Co. is in California. The Nevada-California Co. operates exclusively in Nevada, and there are several other little companies that are the underlying companies of that holding corporation.

Mr. MATHEWS. There is one point I wish you would return to. We think it is true there is a block of stock held by persons interested in your company in the Mono Power Co., and has been held for many years.

Mr. DIXON. Not that I know of, Mr. Mathews.

Mr. MATHEWS. Is that so, Mr. Adams?

Mr. ADAMS. I have no information on that except hearsay. There are 50 shares held by someone who is said to belong to their company, the Nevada-California Co., but they have never appeared, and there has only been an expert accountant appeared once to examine the books. That is all I have ever heard.

Mr. DIXON. I have never heard of that.

Mr. RAKER. One other question along that line. Where is the principal amount of the stock of the Southern Sierra Power Co. held?

Mr. TAYLOR. You mean all of those companies, do you not?

Mr. RAKER. Yes.

Mr. DIXON. I think the largest amount in our company is held in Denver. I, myself, represent one of the largest stockholders—his father left me as one of the trustees of the estate. I did not accept the trust. This young man, now at Yale College, is perhaps the second largest owner of the stock, and I think that the principal holdings are in Denver.

Mr. RAKER. Who was this man by whom the trust was left?

Mr. DIXON. His name was Chappell.

Mr. RAKER. I think the committee ought to know whether or not there is a tight monopolistic concern down there by which they themselves are squeezing out everybody else, or whether it is a regular public-service corporation.

Mr. DIXON. It is a regular public-service corporation. We will be glad to give you any information you want.

Mr. RAKER. I am not criticizing you at all, Judge; you have been very kind; you have been willing to answer every question that any member of the committee has put.

The CHAIRMAN. Is there anything further, Judge?

Mr. DIXON. I really have not been able to make a coherent or connected statement, but I felt as I had come here I ought to attempt to tell you about it.

Mr. VAILE. Referring to this last amendment, the addition to section 8:

"Any association or corporation desiring to construct any such conduit or line shall have the right to proceed under the laws of the State of California to condemn any such right of way."

In view of the discussion we have had here as to the right of one public-service corporation to condemn, either crosswise or laterally, the private right of way of another, the question arose in my mind as to whether the laws of California would give you the relief you want or that anybody else might want, or whether it would not be better to employ some such general language as "the right to acquire such right of way on the payment of just compensation."

Mr. DIXON. I think that is probably a good suggestion.

Mr. VAILE. Instead of "Under the laws of the State of California."

Mr. DIXON. I think that is well taken.

The CHAIRMAN. Do you take away from the Government in this amendment to section 8 the right to decide that matter? I do not understand your last provision. Does the Secretary first have to approve that application?

Mr. DIXON. Yes, sir.

The CHAIRMAN. That is your intention?

Mr. DIXON. Yes, sir.

The CHAIRMAN. And if he approves it, then they can condemn it?

Mr. DIXON. That is it. In other words, we do not want to do anything to interfere with the administration of the general power acts of Congress by the officials of the Federal Government.

Mr. RAKER. Would you just as soon have this proviso you have suggested made a separate section rather than have it complicate section 8 as it now exists?

Mr. DIXON. Oh, certainly.

The CHAIRMAN. You say in the proviso, Judge: "*Provided*, That whenever the corporation may desire to so proceed it shall first make application to the Secretary of the Interior or the Secretary of Agriculture and secure his approval."

Should not that be, "if within his jurisdiction"? You say nothing about securing his approval. That could easily be put in.

Mr. DIXON. Yes; I think that is implied.

The CHAIRMAN. That is implied?

Mr. DIXON. I think so. Our motive is not to interfere with the city in any possible way if we can avoid it. The essence of the whole thing is that we ask that the general laws of the United States shall continue in operation in that territory so that we may avail ourselves of an opportunity to make developments under those general laws, giving to the city the same privilege, and in addition thereto, enlarging its rights of way and giving it a superior title by grant.

The CHAIRMAN. Then you leave it absolutely discretionary with the Secretary of Agriculture and the Secretary of the Interior whether they shall approve this application?

Mr. DIXON. Yes, sir; that is the only way we can get in.

Mr. TAYLOR. Would you be willing to substitute the determination of this question of interference, injury, damage, etc., by the Secretary of Agriculture and the Secretary of the Interior, rather than leave it to the courts under the ordinary rights of eminent domain

or condemnation proceedings to determine whether or not a person who comes in subsequent to you—in other words, I mean the vested rights you now have. Would you want any act of Congress to come along and say that hereafter anybody can cross your rights of way, or can run along your rights of way lengthwise, or utilize the property that you now have vested title to, you might say?

Would you be willing to have Congress pass an act that would repeal the present law and take away the constitutional right which you people have for the protection of your own property and put that purely in the whim of an executive officer down here in Washington to determine whether or not, in the first place, there is any interference or detrimental use or damage, and if so, how much? Would not that be a very bad legal proposition for any concern to submit its property rights to?

Mr. DIXON. I think your proposition is a sound one, Mr. Taylor, but unfortunately we have to submit to that. The Forest Reserves of the United States are under the authority of the Secretary of Agriculture and our titles are qualified and limited; they are not grants as proposed in this bill, and we are hedged about by restrictions.

Mr. TAYLOR. Suppose, for instance, you owned the land yourself and had a patent to it. Then you would indignantly reject, would you not, any proposition that would say to you, "Here, we will let John Doe determine whether or not anybody else can run across your property or not, and also let him fix the damages and everything else, and he will have the sole power as to the rights of everybody over us?"

The DIXON. I think I would under the conditions you have stated.

Mr. TAYLOR. That is exactly what you are trying to do right here now to Los Angeles.

The CHAIRMAN. It seems to me, Judge, your amendment is more liberal toward Los Angeles than the amendment they agreed upon last night. At a superficial glance I believe I would prefer that if I were acting in the interests of Los Angeles.

Mr. DIXON. Of course different minds can look at things differently. I am unable yet to discover that the Los Angeles amendment would aid us in any way, because it is noneffective for three years. At any rate, we submit this to the committee's consideration.

The CHAIRMAN. That is all you have to say, Judge?

Mr. DIXON. I think so.

The CHAIRMAN. Mr. Consaul, how much time do you desire.

Mr. CONSAUL. Not to exceed 10 minutes, Mr. Chairman.

The CHAIRMAN. The matter has been covered so fully we want to get through to-day and give Mr. Mathews a chance.

STATEMENT OF MR. CHARLES F. CONSAUL, WASHINGTON, D. C., ATTORNEY AT LAW, HERE REPRESENTING THE SOUTHERN SIERRAS POWER CO.

Mr. CONSAUL. Judge Dixon has requested me to simply take up a few odds and ends, so to speak, of the discussion. First, with regard to the statement that was made this morning as to the absolute protection which Congress evidently thought it was according in the 1906 Los Angeles act with reference to pending applications for

rights of way; it was suggested this morning that the pending bill carries the same provision in it, and I wish to call to the attention of the committee, Mr. Chairman, the fact that the paper on which that proviso was written was spoiled and wasted in the original bill, because it has carried absolutely nothing of protection to the people who had applications for rights of way pending at the date of the Los Angeles enactment.

The CHAIRMAN. Where is the provision you refer to in the original bill? It is in the bill, I suppose.

Mr. CONSAUL. Yes.

The CHAIRMAN. Is this the language you refer to, at the top of page 2?

Mr. CONSAUL. It is at the bottom of page 4 and going over onto page 5. [Reading:]

Provided, however, That this act shall not apply to any lands embraced in rights of way heretofore approved under any act of Congress, nor affect the adjudication of any pending applications for rights of way by the owner or owners of existing water rights.

And so forth.

The CHAIRMAN. You claim that is a vain thing?

Mr. CONSAUL. That has been proven to be a vain thing, at least in the past; and, Henry Ford, to the contrary notwithstanding, I think we can learn something from history at times.

There was a certain application for a right of way filed, covering Cottonwood Creek, by Messrs. Grant and Anton. That application was filed in the Interior Department in 1905, the year before the Los Angeles act was passed.

Under the act of February, 1905, I believe it was, transferring jurisdiction of forest reserves to the Secretary of Agriculture, the Secretary of the Interior transmitted the papers to the Agricultural Department, and the forester then stated: "Gentlemen, you will be required to make a different application upon a printed form which we will furnish you." That was done. The application was considered in the Forest Service prior to the enactment of the act of 1906, and the special use permit in duplicate was sent to Messrs. Grant and Anton with the statement that they should deposit $100 as the first annual charge imposed by the Forest Service, and should sign in duplicate the special use permit. That was done. The money was paid by Grant and Anton. The papers came in to the Forest Service, and the acting forester physically signed this special use permit; but shortly afterwards it was found that the city of Los Angeles had filed a blanket protest against the granting of any application of that kind there and the result was that the application of Grant and Anton was first suspended, and later rejected; and after that was done Anton and Grant called in counsel, and my firm happened to appear for them, and we filed a petition for reconsideration by the Forest Service, and relied upon the provision in the act of 1906, which is carried into the pending bill, and which I have just read to the committee; and we found that our apparent protection was absolutely futile and vain.

The CHAIRMAN. Why; did they ignore it?

Mr. CONSAUL. They absolutely ignored it.

Mr. GATES. You recognize that the act of 1906 provided that the pending applications could be adjudicated.

Mr. CONSAUL. Yes.

Mr. GATES. And the Grant and Anton case was all adjudicated, so that you are now objecting to the adjudication?

Mr. CONSAUL. The act provided that the act itself should not affect any pending adjudication. The theory submitted by the city, and which was followed by the Agricultural Department, was that the provision simply meant that we were entitled to an adjudication. Marvelous and generous.

Mr. TAYLOR. You did not suppose that the Forest Service were very profound lawyers, did you?

Mr. CONSAUL. We had an argument in which the Solicitor for the Agricultural Department appeared and the Forester, and I believe some other officials. Now, the theory submitted then—and I am reading from the brief filed by the city in this particular case which I find in my files—was this:

> While, perhaps, as urged by counsel for applicants in their printed brief, it was not contemplated by the law giving the department authority in the matter, that such discretion should be exercised arbitrarily, yet, even if it could be said that the action of the department, first in suspending, and finally in rejecting, the application was arbitrary, there was no redress or ground for complaint under the law. The applicants were not entitled, as a matter of law, to the approval of the application, but could only ask that it should be passed upon and either approved or rejected, and only in this sense could it possibly be said that they were entitled to an adjudication thereon.

That was the interpretation made of that apparent protection of the act of 1906, and you may imagine our surprise when we were furnished with a copy of the opinion of the Solicitor of the Agricultural Department adopting that as sound.

The CHAIRMAN. Was that application defeated on the ground of the intent of this act?

Mr. CONSAUL. It was defeated, regardless of the provisions of the act of 1906, simply because the Forest Service said "While you people were here first, and it is true that we told you to put up your $100 and we would approve this, and it is true that we took your $100 at first"—although they returned it afterwards—"and the forester approved this special permit, yet," they said, "this is a mere private enterprise for gain, and on the other side is the public interest of the municipality, and we believe in waiving any technical considerations and acting for the good of the greatest number."

The CHAIRMAN. Then you were defeated by something *aliunde* the act of 1906?

Mr. CONSAUL. I should say we were defeated, notwithstanding the protection which Congress attempted to give us by throwing that provision in there which an ordinary person would say meant that the pending application should be adjudicated in the manner as though there were no conflicting rights.

The CHAIRMAN. They did not take action upon anything in the act of 1906.

Mr. CONSAUL. No; they simply said that that did not have any effect.

Mr. ELSTON. In other words, they could have done the same thing to you in that decision, even if the act of 1906 had not been passed, could they not?

Mr. CONSAUL. Of course, we can not apply to any of the executive departments for an approval of a right of way and demand approval as an absolute legal right. The department has a legal right to approve or disapprove. But if that meant anything in the 1906 act, it cetrainly meant that the rights of the city were not to preclude the approval of then pending applications for rights of way. If it did not mean that, it did not mean anything.

The CHAIRMAN. They did not let anything in the act of 1906 affect your application?

Mr. CONSAUL. No; they said, in other words, that that clause, that proviso, had no affect whatever.

The CHAIRMAN. Is not that all this offers? It says that nothing in this act shall affect the adjudication of your application; and you say nothing in this act did affect your application.

Mr. CONSAUL. It simply rendered it ineffective for any purpose; yes.

Mr. ELSTON. What you are complaining of is a bias in the mind of the Government in favor of a city enterprise rather than a private enterprise, and that bias could very well exist without any act of 1906, or without this act. You could not change their minds and their bias.

Mr. CONSAUL. I am not complaining of there being a bias. I am not complaining of the fact that in a case of a conflict, other things being at all equal, that the preference might be given to a municipality. But we applied for a right of way under the general laws long prior to the arrival of the city in this vicinity, and we were rejected simply because the city thereafter, and even after the Government had taken the money of these people, indicated that it wanted to get in there and was given preference, and that was something more than bias.

Mr. ELSTON. I think that bears on Judge Dixon's statement as to the city and as to putting them exactly on the same basis. In other words, they serve the communities as public utilities, and I think there is a good deal in that, being so regulated that if the city goes into a question of gain it would be a question of priority between your application and the city's on this particular territory, and the mind of a just officer would largely be concerned with the question of which community needed it most, inasmuch as both were public utilities. I think that is rather a good argument.

Mr. CONSAUL. Now, just one further suggestion with regard to the necessity of this legislation for its effect upon the floating of the Los Angeles bond issue. I take it to be, the bonds which are issued by this city are not secured merely by the plant upon which the money is expended, but they are a general obligation of the city; and, that being so, the investor in those bonds surely could not be influenced one way or another by the tenure of the city upon the aqueduct or upon its rights of way. The question would be whether or not there is enough taxable property in that city to make good those bonds. The power companies have been able to float millions of dollars worth of bonds, operating at the disadvantage of these revokable permits, with no security but those; and yet the city has intimated—I do not say claimed, but has intimated—before the committee, that unless it had absolute tenure in its rights of way it

would be at a disadvange in floating these bonds. I thank the committee.

WASHINGTON, D. C. *November 5, 1919.*

Hon. NICHOLAS J. SINNOTT, M. C.,
Chairman of Committee on Public Lands.

DEAR SIR: At the hearing held yesterday before your committee on the above bill we suggested several amendments to the bill. One of them (amendment V) provided for condemnation of rights of way across previously granted rights of way.

We have since prepared a different suggestion herewith inclosed, and it is our desire, with your permission, or that of the committee, to substitute it for the one suggested yesterday, which we wish to withdraw from consideration.

If consistent with your procedure, we should like to have the substitution made in the printed record, or, if not so made, that this letter be appended to our statement made before your committee.

Thanking you and the committee for the courteous hearing given, we remain,
Very respectfully,

J. R. DIXON.
CONSAUL & HELTMAN,
On behalf of the Southern Sierras Power Co.

SUBSTITUTE FOR SUGGESTED AMENDMENT V. PROPOSED BY SOUTHERN SIERRAS POWER CO., TO H. R. 406.

Add to section 2, the following:

"*Provided further,* That during the period allowed the city of Los Angeles for filing maps or applications under this act, the head of the department having jurisdiction over the lands, shall grant easements or permits for rights of way, under any act of Congress now in force or hereafter enacted, for pipes, pipe lines, canals, ditches, flumes, tunnels, or reservoirs for the conveyance, delivery, or storage of water for irrigation, mining, or domestic purposes, or for the generation of electric power, including rights of way for the construction of power plants, towers, transmission, and distributing lines, for the generation and delivery of electricity, with the right reserved, however, to thereafter approve maps or applications of said city for rights of way filed hereunder conflicting therewith, but such approval of such subsequently filed applications or maps of said city shall be upon such conditions as will fully protect prior applicants, grantees, or permittees in the construction, operation, and maintenance of their works: *And provided further,* That all rights of way herein and hereby granted and all other rights of way hereafter granted under general laws for the purposes herein enumerated, over lands within the operation of this act, shall be with the reservation of the power to thereafter grant other rights of way by easement or permit conflicting with such prior grants or permits for the purpose of permitting crossing of rights of way or for limited distances necessary common use of prior rights of way, under such conditions as the head of the department shall find necessary and shall determine to be properly protective against interference with and not detrimental to the construction, operation, and maintenance of the works of prior grantees or permittees."

WASHINGTON. D. C., *November 7, 1919.*

Hon. NICHOLAS J. SINNOTT, M. C.,
Chairman of Committee on Public Lands.

DEAR SIR: Merely for the purpose of making a record of the amendment suggested below, and without argument, we ask, if it meets the approval of your committee, that this letter, including such suggested amendment, be added also to the statement of John R. Dixon:

Additional amendment requested:

At the end of section 1 strike out the period, insert a comma, and add the following: "or to lands located upon Big Pine and Baker Creeks, and their branches, in Inyo County."

The purpose of the company in making this suggestion is to avoid being foreclosed in event Congress sees fit to confer a preference right or option upon

the city, from further presenting in any legal manner the applications of the company for rights of way covering these creeks, and from further contesting for water rights thereon.

Very respectfully,

J. R. DIXON,
CONSAUL & HELTMAN,
On behalf of the Southern Sierras Power Co.

The CHAIRMAN. Mr. Mathews, there may be something you want to say in reply, and I would like to have you examine this addition to section 8, proposed by Judge Dixon, and state your objections to it. It seems to me from a superficial reading of that, the only thing is if the rights of way desired do not conflict with the rights of the city, they can be acquired; and before they could be acquired the applicant has to get the approval of the Secretary of the Interior and the Secretary of Agriculture; and after that is done, then he condemns the right of way. What is your objection to that?

Mr. MATHEWS. On the face of it, it seems to be a fair scheme. I have not examined it in a careful way. That is the only amendment proposed.

The CHAIRMAN. I have just hurriedly read it.

Mr. TAYLOR. Why could we not have Mr. Mathews and Judge Dixon take up this amendment and the other one, with Judge Finney, and see if those three gentlemen can not come to some agreement upon a proper and safe and fair provision to go in here to protect the rights of all concerned?

The CHAIRMAN. That is a consummation devoutly to be wished.

Mr. MATHEWS. There is a fundamental point that is dividing me. You see, for the first time, now we know what the desires of the protestants are, and we would like it if the committee would continue to have its splendid patience with us, while I submit a few points further.

The CHAIRMAN. I do not think we will have hearings any longer than to-day, but you and Judge Dixon and these other people could communicate with us in writing.

Mr. TAYLOR. Why can you not get together, with Judge Finney and Judge Dixon and these other gentlemen, and Mr. Adams, too, and send us a draft of a fair provision, and if you can not agree upon it each one of you send in what you want and the committee can pass upon it?

Mr. MATHEWS. What I wanted to say is that this bill, as you will notice from the act of 1906, excepts the territory where we may get power or water, Bishop Creek and its tributaries. It thus excepted and eliminated from our project some of the richest power sources in that country. Bishop Creek is the largest tributary of Owens River.

Mr. TAYLOR. You have already surrendered your rights in the richest part of the whole business to try to have peace with some of these people.

Mr. MATHEWS. I would like to tell you how that was. The same power interests now on Bishop Creek were before this same committee—that is, the Committee on Public Lands—in 1906, where we were asking for a grant, just as we are asking for to-day; that is, a grant giving us the right to choose the lands we wished within a certain period of time and to have the land held for our benefit until we could make surveys and file our maps and plots and have the

surveys approved. They objected to the bill then and the company operating on Bishop Creek was represented here by its attorneys, and their objections were very strenuously urged; but they said, "If you will eliminate Bishop Creek and its tributaries from your scheme, we have no objection to your bill, although it will grant these lands to you and will tie up the territory especially for your benefit for the period of time specified in the bill."

Mr. TAYLOR. If you cut out Bishop Creek, you could have the rest of the world?

Mr. MATHEWS. Bishop Creek was the prize stream of the region, as you will find if you go there. Judge Raker has been there. It is a beautiful stream, and it is a stream on which a good deal of power can be developed, because there are five plants there now, and there were two of those then. We were excluded from that, and they said, "If you will do that, the bill can go through so far as we are concerned." We said "All right." Now, Senator Flint was in the Senate from California at that time, and took a very active interest in the legislation, and Mr. McLachlan, our Congressman, was very much concerned about it.

Mr. RAKER. What was Congressman Smith's attitude about it?

Mr. MATHEWS. Sylvester C. Smith?

Mr. RAKER. Yes.

Mr. MATHEWS. He was opposed to the measure until we got together as to Bishop Creek.

Mr. TAYLOR. I remember all three of those gentlemen very well. They were all splendid, public-spirited men, and Mr. Smith was a very able member of this committee. William Mulholland, the engineer who built the Los Angeles aqueduct, wires to Mr. Osborne as follows. If I may I will read the telegram.

The CHAIRMAN. What is the date of it?

Mr. MATHEWS. October 29, 1919. [Reading:]

LOS ANGELES, CALIF., *October 29, 1919.*

Hon. H. Z. OSBORNE,
House of Representatives, Washington, D. C.

I was present at a hearing before the committee of Congress considering the aqueduct right-of-way bill in 1906. Potter, representing power companies owning power plants of Bishop Creek, objected to the bill, which was then amended so as to give Los Angeles no rights in Bishop Creek. Companies were satisfied, and withdrew objections to bill. As bill now pending before Congress also excluded Bishop Creek and Mono Basin from rights given city, fair dealing and good faith demand that companies drop opposition to its passage. Large manufacturing plants recently established here have created demand for electric power, which passage of pending bill would permit city to develop; therefore urge early passage of the pending bill in its present form.

WM. MULHOLLAND.

Ex-Congressman James McLachlan wires Congressman Osborne, under date of October 29, 1919, as follows:

LOS ANGELES, CALIF., *October 29, 1919.*

Hon. H. Z. OSBORNE,
House of Representatives, Washington, D. C.:

I was a Member of Congress in 1906, when Los Angeles aqueduct right-of-way bill was passed. At a hearing before the committee Mr. Potter, representing power companies having interests on Bishop Creek, objected to adoption of bill on ground that same would interfere with companies' rights. The bill was thereupon amended to exclude Bishop Creek. Power companies' representative

then withdrew all objections to bill. Amended bill was then adopted without objection from companies. I consider opposition of power companies to the passage of the bill now pending, which also excludes Bishop Creek and Mono Basin, to be a breach of faith by companies. On account of rapid industrial growth of Los Angeles, there is urgent need of additional hydroelectric power, which present bill will permit the city to develop, and I strongly urge its passage.

JAS. MCLACHLAN.

Former United States Senator Frank P. Flint wired Congressman Osborne, under date of October 29, 1919, as follows:

LOS ANGELES, CALIF., *October 29, 1919.*

Hon. H. Z. OSBORNE,
House of Representatives, Washington, D. C.:

I have read Mr. Mulholland's telegram, addressed to you of this date, in reference to the aqueduct right-of-way bill. Mr. Mulholland's telegram sets forth the agreement reached at the time of the hearing on the original bill, and, in my opinion, any opposition to the passage of this bill by the power companies on Bishop Creek would be an act of bad faith. I have no hesitancy in stating that in my opinion the public interest demands the immediate passage of the aqueduct right-of-way bill now pending before Congress.

FRANK P. FLINT.

The CHAIRMAN. That relates to the power companies on Bishop Creek?

Mr. MATHEWS. Yes.

Mr. MAYS. Neither of these telegrams seems to deal with the objection these gentlemen now make to the bill that has shut them out from the right of way to come out with their transmission line. The fact that you relinquished your right is not a material matter in this.

Mr. MATHEWS. This bill does not shut out the power companies on Bishop Creek. They have built and are operating transmission lines from Bishop Creek to their markets. This bill still confines us to the Owens River drainage basin and the country to the south in the counties through which our aqueduct passes, except that it cuts off a portion of Kern and Los Angeles Counties, which was open to us under the act of 1906.

Mr. MAYS. But, do you not see that it makes some change, not speaking particularly of the aqueduct, but in your rights of way for transmission line and power house, and so forth.

Mr. MATHEWS. Yes; some territory in the southerly part of Mono County is added, and some in Kern and Los Angeles Counties is eliminated—such additions and eliminations being intended to keep the bill in line with the aqueduct and power projects of the city, as projected under the act of 1906.

Mr. MAYS. But the bill did not give you the right to have any right of way for power purposes.

Mr. MATHEWS. Yes, it did, and in the same language.

Mr. MAYS. That is what I am speaking of. You are asking for additional or changed rights of way for these purposes.

Mr. MATHEWS. Only as to that portion in the southerly part of Mono County where we acquired lands under the act of 1906, on which we propose to develop power, and we need, therefor, a comparatively short stretch of right of way connecting with rights of way we now seek and might have obtained under the act of 1906, if time had allowed.

Mr. MAYS. At that time did you have some notion of the taking in of Bishop Creek, or those two power plants?

Mr. MATHEWS. Yes; that is a tributary.

Mr. MAYS. Appropriating the power plants that those men had?

Mr. MATHEWS. No; they only had two power plants at that time.

Mr. MAYS. Did they not have the entire flow of that creek?

Mr. MATHEWS. No; their rights were just for power purposes, and, since 1906, they have built two or three additional plants.

Mr. RAKER. The truth of the matter is that if they had 50 power plants on Bishop Creek, it would not affect the amount of water that goes down to your aqueduct?

Mr. MATHEWS. No, sir.

Mr. RAKER. In other words, you are developing your power with the aqueduct as a starter?

Mr. MATHEWS. Yes; that is right; the aqueduct.

Mr. RAKER. And if they used water 50 times, over and over again up on Bishop Creek, the same amount of water would come to your intake?

Mr. MATHEWS. Yes; there is no question about water. We have kept faith with them and have not tried to get on that stream through this bill or otherwise. We have kept off of that stream, although our line ran right by there.

Mr. MAYS. What have you to say to Judge Dixon's condition, that this is a grant in praesenti?

Mr. MATHEWS. It is a grant in praesenti, effective only when we file our maps and secure approval.

Mr. VAILE. It is a condition that relates back to the date of the passage of this act, is it not?

Mr. MATHEWS. Yes; it is.

Mr. MAYS. Do you believe it would have the practical effect that he suggests, of preventing branch lines being taken off,

Mr. MATHEWS. Not at all. When this bill was referred by your committee to the Department of Agriculture, they said to Los Angeles, "This power company on Bishop Creek has also developed power in the Mono Basin, and that basin is outside of the drainage area in which your water and power projects are located under the act of 1906. We do not think you ought to go there under the present bill." We said, "Let that be cut out of the bill." We were also told by the department. "There are other power interests in the Kern River basin, and you ought not to interfere with that." We said, "Cut that out," although the Kern River basin is rich in power and was open to us under the act of 1906.

Mr. RAKER. But in due fairness to the committee on this matter, the Agricultural Department made no such report until the committee determined that they would take out the Mono Basin and the Kern side. They reported favorably on the bill as it originally existed, and they never cut out the Mono Basin in their report to this committee. I think you ought to be fair to the committee. I mean, you want to be fair.

Mr. MATHEWS. Surely; but I think you will find I am right.

Mr. RAKER. The facts are that the Agricultural Department reported favorably the bill as originally introduced, and so did the

Department of the Interior, and after the committee heard the facts they suggested that they cut out the Mono Basin and Kern.

Mr. TAYLOR. If you wait six months more there will be some more people in here who will want to cut out some more, if we do not do something. All these delays make more and more trouble.

Mr. MATHEWS. The point I make is that in 1906 these power people on Bishop Creek said to us and to the lands committee that they had their project started and wanted it protected against the city, and if the city were excluded from the creek a grant could be made, as asked for by us, and they would make no opposition; and we have kept faith with them, not only under that act but under general legislation, although it is the best power creek tributary to the Owens River.

Mr. MAYS. How much power does it develop?

Mr. MATHEWS. I think the Judge had it about right, 30,000 horsepower. There were only two plants there in 1906, as I remember. There are five now, and an additional one has been projected by the same company.

Mr. MAYS. Your present appropriation is about 225,000?

Mr. MATHEWS. Our aqueduct and Owens Valley power project includes something over 225,000 horsepower.

Mr. MAYS. So that you did not give up all the power at that.

Mr. MATHEWS. No, but our line crosses right over that creek.

The CHAIRMAN. What do you say as to the future demand for power in territory desired by you, traversed by the Sierras Co.?

Mr. VAILE. And in Inyo County?

The CHAIRMAN. Judge Dixon spoke of the possibilities and needs of the power from the standpoint of the development of the territory.

Mr. MATHEWS. Let me just illustrate in a circumstancial way what that probably is. As shown here, we supply the county seat of Inyo with light under a plant built in 1906 for construction purposes. Inyo County has about 250 people. It is 50 years old. I would say that the future demand for power in Inyo County and Kern County, in the territory there where we are seeking rights, is negligible.

Mr. TAYLOR. I do not suppose anybody 25 years ago had any idea of the possibilities of power, like they have at the present time?

Mr. MATHEWS. No.

Mr. TAYLOR. There has been some questions here as to laches, as to lack of diligence or energy on the part of the city. Now, somebody said that Mr. Adams, himself, has had a plant there about 17 years, and has never yet developed a particle of power. Is that true?

Mr. MATHEWS. Yes.

Mr. BARBOUR. What do you mean by a pound of power?

Mr. TAYLOR. A horsepower or kilowatt or quantity; any quantity.

The CHAIRMAN. I want to know what the reasonable expectation in the future is for power demands in this territory. I wish you would expatiate a little on that.

Mr. VAILE. Refer to the territory specifically, Mr. Chairman.

The CHAIRMAN. The territory desired by Los Angeles bordering on the lines of the Sierras Power Co.

Mr. MATHEWS. The increased demand for power of the system represented by Judge Dixon is more at the point where it gets into the San Bernardino County, Riverside County, and Imperial County. But, in my opinion, in those parts of Mono, Inyo, and Kern Counties where we are seeking rights and power opportunities there will be no substantial increase in the demand for power.

I wish to add that the territory in which the great bulk of the power supplied by the Southern Sierras Power Co. is territory traversed by the lines of the largest power company in California, the Southern California Edison Co., and it is amply able alone to take care of that entire territory.

The CHAIRMAN. San Bernardino and Redlands are not covered by your proposed grant?

Mr. MATHEWS. No, sir; we could not go there if we wanted to.

The CHAIRMAN. He says that you both want the waters of Big Pine Creek.

Mr. MATHEWS. I would like to explain that. On Big Pine Creek they wanted the power and we wanted it, and the question was left, really, to the local irrigators, because the project would be an interference with their irrigation system. They made a contract with us under which we are allowed to store the water for power which is for us, and for water which is for the local irrigators, which we could not do without their consent. We have a written contract filed with the State water commissioners for that.

The CHAIRMAN. They have vested water rights?

Mr. MATHEWS. They have the entire stream, own it, and every drop of it is taken up for irrigation, and they took a hand in the contest referred to by Judge Dixon.

Mr. RAKER. They own the natural flow, the entire flow?

Mr. MATHEWS. Yes.

Mr. RAKER. And they had control of the processes by which people could go up and make storage?

Mr. MATHEWS. They had the storage reservoir, and had taken out rights of way for that, and until they let the city go in there no one could go in there.

Now, getting down to the question of the proposed grant to the city, it is the same thing covered by the act of 1906, with some additions to connect up with what we got under that act, and some eliminations of territory open to us under that act, and that is the character of claim that we are asking to be recognized here, more in the way of continuing the policy which was sanctioned by Congress, 1906. We have kept faith with the power companies on Bishop Creek. We are keeping out of the rich power field known as the Mono Basin, and are excluding Fish Slough Reservoir, which is controlled by those companies, and our objective is the same now as in 1906—Los Angeles city. Anybody can go on down and see where it is we are going. Anybody can know that under the law we can not go anywhere else, primarily.

Speaking of this power for Pasadena, we do not undertake to deliver any given quantity of power, or when we need it for our own needs of Los Angeles. If we have any surplus power we can dispose of it, and if we do not that is the end of it. We can not

go into the business to serve other cities except to supply them with any surplus power we may have. We can serve ourselves, and then if we have any surplus power we can sell it to other communities.

Mr. BARBOUR. Who uses the power that is taken into Los Angeles by the Pacific Light and Power Co., these railroads?

Mr. MATHEWS. The Pacific Light & Power Co. has been absorbed by the Southern California Edison Co., and the latter company supplies all the power for the street railways and trolley lines in the city.

Mr. MAYS. I understood you a while ago to say that you asked an extension of the rights that you acquired in 1906.

Mr. MATHEWS. We do not ask for an extension of rights we acquired in 1906, but rather for an extension of time in which to acquire additional rights, the bulk of which we might have acquired under that act if time had permitted, and the rights now sought and not covered by that act are connected with rights we did acquire under that act.

Mr. MAYS. Is that all you ask?

Mr. MATHEWS. Yes; we ask an extension of the time in which to select the rights of way we want. We ask that the territory affected shall include a section in the southerly part of Mono County, not specifically named in the act of 1906, because, under that act we acquired by purchase an extensive area of land in the southerly part of Mono County in connection with our projects, and we now own those lands and, in order to make our plans effective, we want time and the right to select and obtain rights of way we might, if time had permitted, have obtained under that act. With rights of way to let us out of those Mono lands, but with valuable rights excluded from this bill which were open to us under that act.

Mr. VAILE. Do you ask for any rights of way or power sites?

Mr. TAYLOR. Do you ask for any dams or reservoirs or pipe line?

Mr. MATHEWS. We use the same language in the bill in describing the kind of rights we want as was employed in the act of 1906.

The CHAIRMAN. What is the effect of that act as to whether or not we give you those power sites?

Mr. MATHEWS. You give us the right to select and obtain sites for power houses and reservoirs.

Mr. TAYLOR. How many new reservoirs do you want, a dozen or fifteen or twenty-five?

Mr. MATHEWS. About three.

Mr. TAYLOR. Do you know now definitely whether that is all you want?

Mr. MATHEWS. We know there are three. We are limiting ourselves to a territory which contains no reservoir sites to any considerable extent. The reservoir opportunities are largely on Bishop Creek. They have fine reservoir sites there, but we are excluded from Bishop Creek and from Mono Basin.

Mr. TAYLOR. Do you know where you want them?

Mr. MATHEWS. Yes, we want them in the mountains to the west of the aqueduct.

The CHAIRMAN. How much will one power site along the aqueduct occupy?

Mr. MATHEWS. I should say about 2 acres. There is no need of any great stretch of land.

The CHAIRMAN. That is not much more than the width of your aqueduct. Two hundred and eight feet is an acre.

Mr. MATHEWS. Yes, sir. It might be that the power house would be located apart from the conduit. Judge Raker—if you will permit me to address you familiarly—the point was brought out yesterday by Mr. Fritz as to the location of our power lines with reference to the aqueduct right of way. He said they could be built on the aqueduct right of way——

Mr. RAKER. Yes.

Mr. MATHEWS. He was mistaken, as you will understand when I call your attention to this fact. The aqueduct itself being a gravity affair, has to follow all of the sinuousities of the country over which it passes in order to hold to the proper grade, and it is as crooked as a rail fence almost. but the power lines should be just as straight as you can keep them, because their stability requires that. If you have a zigzag line, with the tension of the wires on different portions, you will have a very unstable line, and I think an electric power constructor would wish to keep that line as straight as he can, because that means strength and stability, and in that country it is very important to have your lines strong.

Mr. RAKER. That is true. Now, one question, and I think we can clear it up. Above the city of Los Angeles, where the drop is that goes into the valley, you have your electric line on poles, that comes into the city of Los Angeles.

Mr. MATHEWS. We have that from farther up.

Mr. RAKER. That is what I want to get. How far up the aqueduct have you your system now extended?

Mr. MATHEWS. At what is known as the San Franciscisquito plant No. 1.

Mr. RAKER. How far is it from Los Angeles to that part of the aqueduct?

Mr. MATHEWS. That is approximately 50 miles from the city hall.

Mr. RAKER. That is about halfway from Mojave?

Mr. MATHEWS. Halfway from the city of Mojave?

Mr. RAKER. Then halfway between the city of Los Angeles and Mojave, from that on up to the intake, you have no electric line established?

Mr. MATHEWS. None at all, excepting some local lines in Owens Valley, built in connection with the construction of the aqueduct and to serve consumers of power in that valley.

Mr. RAKER. None at all?

Mr. MATHEWS. We have no part of our main transmission line established for bringing power from the Owens River Valley into Los Angeles above said plant No. 1.

Mr. RAKER. That is, established. So that from the intake, or wherever your other plants are put, you want the right, under this bill, to file your right of way for your transmission line to connect from where it now is to San Bernardino?

Mr. MATHEWS. In San Francisquito Canyon.

Mr. RAKER. See if that is about right. Now, outside of your transmission line, which has been developed since your aqueduct has been

built, you can develop more electric energy, and the needs of Los Angeles are such that you ought to have it; is that right?

Mr. MATHEWS. Yes. I am advised by wire from my people in Los Angeles that all of the power we now have or can get if this bill goes through, amounting to about 245,000 horsepower, will be in service in eight years in the city of Los Angeles.

Mr. RAKER. You did not file your maps and plats for your transmission lines at all above the city of Mojave, did you?

Mr. MATHEWS. Under the act of 1906?

Mr. RAKER. Yes.

Mr. MATHEWS. No. Excepting the short lines in Owens Valley, to which I have referred, for local uses.

Mr. RAKER. You realized, after that was constructed, and the hard work was put in, the value of the electrical energy connected with that plant?

Mr. MATHEWS. We realized it before, but more and more as time passed.

Mr. RAKER. Well, even before, before you even filed that map and plat. What you want this bill for is so that you can go in there and get rights of way and transmission lines and power sites and also additional reservoir sites and canal sites over this country, as it may be necessary to complete your plant?

Mr. MATHEWS. Yes; I think you have largely summarized it.

The CHAIRMAN. Is that all you wish to add, Mr. Mathews?

Mr. MATHEWS. There is an amendment proposed by the Department of Agriculture in its report which we agreed to; shall I call attention to that?

The CHAIRMAN. No; we have those things which you agreed to.

Now, is it not possible for you and Judge Dixon and Mr. Fritz and Mr. Edgar to get together and see what you can do toward reaching an agreement; and if you can not, you write to the chairman, and your reasons will be incorporated in the record.

(See letters from Dixon and Consaul at close of latter's testimony.)

Mr. MATHEWS. Certainly, I will conform to that program.

The CHAIRMAN. Is there anything further you wish to add, Mr. Edgar or Mr. Fritz?

Mr. EDGAR. We have wanted to get something into the record.

The CHAIRMAN. You will have an opportunity, if you stay here, to read over your statements and correct them; but if you want anything to go into the record, hand it in to the reporter.

Mr. VAILE. Mr. Fritz says that he has it now. You can just hand that in or insert it with your remarks in chief, when you go to correct the notes.

Mr. BARBOUR. Has this letter that was addressed to the various members of the committee by soldiers at Inyokern, Calif., gone into the record?

The CHAIRMAN. No.

Mr. FRITZ. One of the things that I was talking of yesterday was as to these soldiers.

The CHAIRMAN. That will be inserted, without objection. You will see to that, will you, Mr. Barbour?

Mr. BARBOUR. Yes, sir.

A copy of the letter referred to was handed to the reporter by Mr. Barbour, and is here printed in full in the record as follows:

INYOKERN, CALIF., *October 25, 1919.*

Hon. H. E. BARBOUR,
Member Public Lands Committee,
House of Representatives, Washington, D. C.

DEAR SIR: Our soldier's committee has been notified that the Osborne bill, H. R. 406, comes up next Friday, October 31, at 10 a. m., for consideration by your committee. We request that you give your personal and careful consideration to the reasons set forth in this letter for our action in protesting the passage of this bill.

The bill in question authorizes the Secretary of the Interior to grant to the city of Los Angeles, from time to time, certain rights to construct power sites, dam sites, and reservoirs, including certain public lands in a reserve. The bill also requests the Secretary of the Interior to sell to the city of Los Angeles certain public lands in California, including a definite grant to the rights of way set forth above, for the purpose of constructing vast power sites. Los Angeles claims that the passage of this bill will not interfere with our water project, but prominent attorneys, including Judge Vermilyea and Judge Carpenter of Los Angeles, tell us differently. Both of them state, that while the proposed act does not, in term, invest in the city of Los Angeles an exclusive grant to the strips of land referred to in the bill, yet it would be construed as having such an effect by any court, there is no doubt.

You are no doubt familiar with the fact that the city of Los Angeles, through its present aqueduct, which is over 250 miles in length, is taking water from a section of country far north of the city, from a vast watershed, thus depriving a rich section of country from the very water to which it is rightfully entitled. It is a recognized and established fact that the principal part of this water is now being used for irrigation purposes in the San Fernando Valley, when the basis on which this grant was originally secured from the Government, was that the water was to be used for the domestic uses of the people of Los Angeles. This San Fernando Valley land was purchased just prior to the completion of the aqueduct by certain wealthy capitalists in Los Angeles, and the thousands of acres then purchased are now being sold at from $400 to $600 per acre. They were bought by these capitalists for almost nothing. In order to allay the suspicions of the people of Los Angeles, and to secure their suport of the project in the beginning, it was part of the charter that this water was to be used in and for the city only. Later, through the influence of certain publications, and those financially interested, the city limits of Los Angeles were extended to include the San Fernando Valley, thus enabling the aqueduct to supply the San Fernando Valley with irrigation water.

This complied with the letter of the law, but was in direct violation of the spirit of the Los Angeles voters who supported the aqueduct bonds, and in violation of the spirit of the grant of the water. This violation is proven by the fact that the city limits of Los Angeles include miles and miles of farm lands, all being irrigated under a so-called "domestic" city water system. The almost ludicrous position in which its places Los Angeles is shown by the fact that Los Angeles, with a population of only 400,000 is larger in area than New York with her 7,000,000 population. This very water, which is being used not for domestic purposes but for irrigation purposes, over 100 miles south of us, passes right through our fertile valley, now a desert; when it is a well known and fundamental water law that the irrigable lands closest to a source of water supply must be irrigated first; and the water only be allowed to be taken down as far from the source of supply as it will irrigate the land comfortably and safely.

The Los Angeles attorney has insinuated that in our attempting to prevent the passage of this bill without amendment we are attempting to jeopardize the title to the water which Los Angeles already has. But this is not the case; for in protesting the passage of this bill we are making no objection to the facts set forth above, regarding Los Angeles using their present supply of water for irrigation purposes, for the aqueduct, having been completed for years, is now an established source of water supply for domestic and irrigation purposes around Los Angeles, and it is not our intention to interfere

with the water which Los Angeles now has, even if such a thing were possible, which certainly is not.

However, we, the citizens of Inyo-Kern-Fremont-Mojave valleys, including numbers of former service men, have organized an irrigation project for the purpose of irrigating the three valleys, which include a body of 270,000 acres of level, fertile land, well adapted to irrigation purposes. Our source of water supply is the Mono Lake region, which is far north of the source of supply of the Los Angeles aqueduct, entirely separate and apart from their system and not interfering with their aqueduct in the slightest way. The right of way that we will use, however, will, by the laws of gravity, naturally have to pass very close to the Los Angeles aqueduct, especially in certain narrow canyons. If they are given this exclusive grant, without an amendment providing that we can also run our aqueduct down these narrow canyons, it is readily seen that they can prevent the building of our aqueduct entirely, for in some places the two aqueducts must run parallel only a few yards apart.

Mr. Tate, engineer of the Federal department, has recently submitted a report stating that our project, which he recommends very favorably, will develop 60,000 horsepower in addition to irrigating the three valleys. We will thus become competitors to the Los Angeles aqueduct in their vast power projects, and it is reasonable to assume, therefore, that they will try to block us, and in fact are now trying to do so by the passage of this apparently innocent bill. Their reason for wanting it passed must be that they want an exclusive grant to the right of passage in these narrow canyons mentioned above, and if they are given it they can block us, and if they so desire they can prevent forever the bringing down of the Mono waters to irrigate this vast section of California.

The amendment which we are asking to the bill is a reasonable one. We simply request that the giving of their right of way be not construed as an exclusive grant, that will prevent any other aqueduct from being brought down through these narrow canyons. They say that they will be fair to us if given this grant. We contend that if they mean what they say they will not object to our amendment being added on to the bill when it comes before your committee for consideration. We also contend that if they do object to this amendment being added on to the bill, it will expose their ulterior motive behind their request for the bill's passage, and show that they are trying to monopolize the power possibilities and irrigation waters of the entire State of California. It is not denied by the chief attorney for the Los Angeles aqueduct that the purpose of their bill is to obtain an exclusive grant. The best they will offer us is a so-called "gentlemen's agreement" that this bill will not interfere with our project, and that they will be "reasonable," etc. We feel that we are not asking too much when we ask that this "agreement" be made binding by our amendment being added on to the bill. It is plain to be seen that the Los Angeles aqueduct, in attempting the passage of this bill, is trying to create for themselves a vast Government-guaranteed monopoly of California's water supply, thus preventing the development of this vast section of California, where homesteaders have struggled for years, and where returning soldiers are settling on homes, in which they hope to be protected by you guardians of the Nation's honor.

If you do not feel inclined to defeat this unjust bill, we petition you to at least see to it that the amendment, already filed with your committee, become a part of the bill, for nothing less than this amendment will protect our interests.

Respecfully submitted.

JOHN H. COOPER,
First Lieutenant, A. S., S. O. R. C.
LYMAN L. PHILLIPS,
Second Lieutenant, A. S., S. O. R. C.
WALLACE B. HARWOOD,
Second Lieutenant, A. S., S. O. R. C.
GARDNER S. TURRILL,
Second Lieutenant, A. S., S. O. R. C.
JOHN H. BURNELL,
Formerly Sergeant, United States Infantry.
Representing the Soldiers' Committee of the Inoy-Kern-Fremont-Mojave Irrigation Project.

Mr. CONSAUL. In view of the nature of the telegrams which have just been read by Mr. Mathews, as the power interests are at least impliedly charged with lack of good faith in now protesting against this pending bill, I wish to simply state in the record that I was associated with Mr. Charles F. Potter, representing the Nevada-California Power Co. when we appeared before this committee of the House in 1906, and we had an extended conference at the hotel one evening with representatives of the city, and as I recollect, Mr. Mathews and Mr. Mulholland were present; and we had no objection to the bill except as it affected Bishop Creek, because at that time the Nevada-California Power Co. was a comparatively small affair, and had no interest except on Bishop Creek; and we were told, as a reason for our not insisting on any amendment to the then pending bill, by the city authorities, "We do not want anything in there that will interfere with you;" and our reply was "If that be so, let us put it in the contract and let it go into the bill, and then we will know that you can not bother us." But the then existing company had no interest except on Bishop Creek at that time, and it was originally formed for the primary purpose of generating power and taking it over to Tonopah and Goldfield, Nev.; and conditions of that country have changed. The Southern Sierras Power Co. was not in existence at all at that time—in 1906.

At the request of Judge Dixon I would like to leave some printed briefs prepared on this matter by Mr. Henry M. Coil, of Riverside, Calif., representing the company.

Mr. MATHEWS. There is no objection to that. It may be understood, then, that the Nevada-California Power Co. was the parent company of the existing concern?

Mr. CONSAUL. Yes.

Mr. EDGAR. Mr. Chairman, we want to meet the others and see what we can work out. We are not attorneys, but we are going to leave our original request here to guide you gentlemen, and we expect that you will see to it that our interests are taken care of. We are representing the farmers, and so forth, and we will do the best we can to compromise on this matter; and if we overlook something, we understand that you are going to take care of us, if you see the point.

The CHAIRMAN. You will meet with Mr. Mathews and Mr. Dixon?

Mr. EDGAR. Yes, sir.

The CHAIRMAN. I would state for your consideration, Mr. Edgar, that as I recall it there is nothing in Judge Dixon's amendment to the last section, covering power plants.

(At 4.30 o'clock p. m. the committee adjourned, subject to the call of the chairman.)

APPENDIXES.

APPENDIX A.

LETTERS FROM REPRESENTATIVES OF PARTIES IN INTEREST AND DEPARTMENT OF INTERIOR REPORTING ON CONFERENCE SUGGESTED BY THE COMMITTEE.

WASHINGTON, D. C., *November 6, 1919.*

Hon. N. J. SINNOTT,
Chairman Committee on Public Lands,
Washington, D. C.

DEAR SIR: I desire to advise you that, in pursuance to your request, I met with Mr. Mathews, representing Los Angeles, and Judge Finney, at the latter's office, to discuss the proposed amendment on behalf of the Mono Power Co. to amend H. R. 406 by inserting the words "or transmission" after the word "develop," on line 20, page 5.

The result of the conference was that Mr. Mathews was agreeable to let section 3 stand without any amendment, including the six months' time allowed for making filings. He objected to the insertion of the words "or transmission." It was suggested that the time for filing be shortened and the words "or transmission" inserted, but he declined to agree.

Very truly, yours, EDSON F. ADAMS.

WASHINGTON, D. C., *November —, 1919.*

Hon. Mr. SINNOTT, M. C.
Chairman Public Lands Committee,
Washington, D. C.

DEAR SIR: According to your direction, we write our further communication to you, as follows:

At the hearing on the proposed bill H. R. 406, known as the Osborne bill or the Los Angeles aqueduct bill, you repeatedly requested the opposing factions to meet in conference with Judge Finney, of the Interior Department, to devise a compromise measure.

On the first occasion Mr. Mathews, attorney for the city of Los Angeles, declined to meet with the power people and us in conference, but offered modifications of the bill to the irrigation people represented by us, which were not satisfactory to us.

At a later session of the hearing you again requested all factions to meet in conference with Judge Finney. Such representatives of all interests then met in Judge Finney's office, but Judge Mathews declined to act in conference style to frame up an omnibus compromise, and procedeed to discuss arrangements with each separate interest separately. His proposal to those we represent was as follows:

Insert after the word "basin" in line 6, page 3, section 1, of the bill as printed, the following:

"Embracing Mono Lake drainage basin and Adobe Valley and Black Lake drainage basin," and by adding the following:

"*Provided,* That the rights of way hereby granted shall be subject to the right of the head of the department having jurisdiction over the lands, in his discretion, and under such conditions and regulations as he shall prescribe to authorize the grantee, permittee, or his assigns of any right of way granted or approved under any act of Congress now in force or hereafter enacted for a canal, ditch, flume, tunnel, pipe, pipe line, or conduit for the conveyance of water, or power plants, towers, or lines for the transmission or delivery of electrical power, to construct, operate, and maintain the same across or for limited distances upon the rights of way hereby granted, in such manner and at such places or points as the head of such department shall find necessary and shall determine, will be properly protective against interference with and not detrimental to the construction, operation, and maintenance of the works of said city."

For your information the amendments suggested by the Southern Sierras Power Co. (which Judge Finney advised us would fully protect our people) is as follows, to wit:

"*Provided*, That during the period allowed the city of Los Angeles for filing maps or applications under this act, the head of the department having jurisdiction over the lands shall grant easements or permits for rights of way under any act of Congress now in force or hereafter enacted for pipes, pipe lines, canals, ditches, flumes, tunnels, or reservoirs for the conveyance, delivery, or storage of water for irrigation, mining, or domestic purposes, or for the generation of electric power, including rights of way for the construction of power plants, towers, transmission, and distributing lines, for the generation and delivery of electricity, with the right reserved, however, to thereafter approve maps or applications of said city for rights of way filed hereunder, conflicting therewith, but such approval of such subsequently filed applications or maps of said city shall be upon such conditions as will fully protect prior applicants, grantees or permittees, in the construction, operation, and maintenance or their works: *And provided further*, That all rights of way herein and hereby granted and all other rights of way hereafter granted under general laws for the purposes herein enumerated over lands within the operation of this act shall be with the reservation of the power to thereafter grant other rights of way by easement or permit, conflicting with such prior grants or permits for the purpose of permitting crossing of rights of way or for limited distances necessary common use of prior rights of way under such conditions as the head of the department shall find necessary and shall determine to be properly protective against interference with and not detrimental to the construction, operation, and maintenance of the works of prior grantees or permittees."

In consideration of the general public welfare, we request that H. R. 406 be amended as suggested by Congressman William Kettner for us and again at the last hearing by Mr. Fritz for us, as follows, to wit:

SUGGESTED AMENDMENT TO H. R. 406.

Add a new section reading substantially as follows:

"SEC. 9. The rights of way hereby granted to the city of Los Angeles are not exclusive and nothing in this act contained shall be construed as preventing the granting of rights of way for pipes, pipe lines, canals, ditches, flumes, tunnels, or reservoirs for the conveyance, delivery, or storage of water for irrigation, mining or domestic, or power purposes, or for the generation of electric power, including rights of way for the construction of power plants, towers and transmission lines, for the generation and delivery of electricity, under existing laws of California and the United States or that may be enacted hereafter, to any person, association or corporation, over, through, upon, or across the lands affected hereby."

We have arranged that the Reclamation Service will make a survey for us at our expense and we wish to proceed with it as early as possible. As a change of location might very materially affect the cost of the construction of our project, and as prior locations on reservoirs sites and power sites might also seriously affect the consideration of our project, therefore, the proposed time provided for in H. R. 406 as introduced would virtually cause us to postpone our whole proceedings.

Respectfully submitted.

A. EDGAR,
K. K. FRITZ,
Committee for the People of the Inyo-Kern, Fremont, and Mojave Valley Irrigation Project.

WASHINGTON, D. C., *November 10, 1919.*

In re H. R. 406, Sixty-sixth Congress, Los Angeles Bill.

Hon. NICHOLAS J. SINNOTT, M. C.,
Chairman of Committee on Public Lands.

DEAR SIR: Pursuant to the suggestion of yourself and of your committee, that conference be had between Mr. E. C. Finney, of the Interior Department; Mr. Mathews, representing the city of Los Angeles; Mr. Adams, representing the Mono Power Co.; Messrs. Fritz and Edgar, representing the land-owners

of Inyo-Kern, Fremont, and Mojave valleys, and ourselves, representing the Southern Sierras Power Co., with view to working out some form of amendment which would be at least fairly satisfactory to all concerned, we have the honor to report:

On November 5 we met Mr. Mathews, with the others mentioned, and a day later met him and Mr. Finney, but regret to say that it has thus far seemed impossible to agree with Mr. Mathews upon anything at all satisfactory, owing to his insistence upon retaining that feature of the bill conferring an exclusive option upon the city.

Mr. Finney, we infer, will make a more detailed report.

Regretting the necessity for thus advising you, we remain,

Very respectfully,

J. R. DIXON,
CONSAUL & HELTMAN,
For Southern Sierras Power Co.

DEPARTMENT OF THE INTERIOR,
Washington, November 6, 1919.

Hon. N. J. SINNOTT,
Chairman Committee on Public Lands,
House of Representatives.

MY DEAR MR. SINNOTT: Pursuant to request of the Committee on Public Lands, I conferred on November 5 and 6 with the representatives of the city of Los Angeles, the representatives of the Southern Sierras Power Co., and the representatives of certain prospective irrigation projects with regard to the Los Angeles bill, H. R. 406, and have to report that the parties were unable to reach an agreement on the fundamental question as to whether or not Los Angeles should be granted an option or a withdrawal on the lands described in the bill for three years or for any other period. The representatives of the power company submitted two suggested provisos to section 2 of the bill, copy of which I inclose. The second proviso is similar in effect to the one presented to the committee at the hearing, and no disagreement existed between the parties as to it, but the first proviso suggested involves the vital and basic question first mentioned herein.

It would appear to me that the difference is so irreconcilable that it must be settled by the committee.

Very truly, yours,

E. C. FINNEY,
Member Board of Appeals.

SUBSTITUTE FOR SUGGESTED AMENDMENT V PROPOSED BY SOUTHERN SIERRAS POWER CO. TO H. R. 406.

Add to section 2 the following:

"*Provided further*, That during the period allowed the city of Los Angeles for filing maps or applications under this act the head of the department having jurisdiction over the lands may grant easements or permits for rights of way, under any act of Congress now in force or hereafter enacted, for pipes, pipe lines, canals, ditches, flumes, tunnels, or reservoirs for the conveyance, delivery, or storage of water for irrigation, mining, or domestic purposes or for the generation of electric power, including rights of way for the construction of power plants, towers, transmission and distributing lines for the generation and delivery of electricity, with the right reserved, however, to thereafter approve maps or applications of said city, for rights of way, filed hereunder, conflicting therewith, but such approval of such subsequently filed applications or maps of said city shall be upon such conditions as will fully protect prior applicants, grantees, or permittees in the construction, operation, and maintenance of their works: *And provided further*, That all rights of way herein and hereby granted and all other rights of way hereafter granted under general laws for the purposes herein enumerated over lands within the operation of this act shall be with the reservation of the power to thereafter grant other rights of way by easement or permit conflicting with such prior grants or permits for the purpose of permitting crossing of rights of way or for limited distances necessary common use of prior rights of way, under such conditions as the head of the department shall find necessary and shall determine to be properly protective against interference with and not detrimental to the construction, operation, and maintenance of the works of prior grantees or permittees."

DEPARTMENT OF THE INTERIOR,
Washington, November 7, 1919

Hon. N. J. SINNOTT,
Chairman Committee on Public Lands,
House of Representatives.

MY DEAR MR. SINNOTT: I advised you yesterday of the partial failure of the representatives of the city, the power companies, and certain proposed irrigation projects to agree on the one question as to whether Los Angeles should be granted an option on the lands described in the bill for three years or for any other period.

On thinking the matter over, I believe that as the best way out of it, giving all interested such opportunity and protection as the public interest would seem to warrant, the attached proposed proviso to section 2 of the bill would solve the difficulty. I think with this amendment the first proviso suggested would open up the territory in question to legitimate development while at the same time protecting the city's interests. The second proviso, which is substantially the one which we presented to your committee at the hearing, would take care of power companies, the irrigation interests, and any other person who, after the end of the period of reservation, should desire to cross or impinge for limited distances upon rights of way granted the city.

I offer the inclosed as my personal idea of the best solution of the controversy.

Very truly, yours,

E. C. FINNEY,
Member Board of Appeals.

Provided, That during the period allowed the city of Los Angeles, for filing maps or applications under this act, the head of the department having jurisdiction over the lands, may grant easements or permits for rights of way, under any act of Congress now in force or hereafter enacted, for pipes, pipe lines, canals, ditches, flumes, tunnels, or reservoirs for the conveyance, delivery, or storage of water for irrigation, mining, or domestic purposes, or for the generation of electric power, including rights of way for the construction of power plants, towers, transmission and distributing lines, for the generation and delivery of electricity, if after affording the city an opportunity to be heard such head of department shall find that the easement or permit may be granted without destruction of or material interference with the works constructed or proposed to be constructed by the city: *And provided further*, That all rights of way herein and hereby granted and all other rights of way hereafter granted under general laws, for the purposes herein enumerated, over lands within the operation of this act, shall be with the reservation of the power to thereafter grant other rights of way by easement or permit, conflicting with such prior grants or permits for the purpose of permitting crossing of rights of way or for limited distances necessary common use of prior rights of way, under such conditions as the head of the department shall find necessary and shall determine to be properly protective against interference with and not detrimental to the construction, operation, and maintenance of the works of prior grantees or permittees.

WASHINGTON, D. C., *November 12, 1919.*

Hon. N. J. SINNOTT.
Chairman House Committee on Public Lands,
Washington, D C.

DEAR SIR: In compliance with the suggestion of the committee at its hearing on the 4th instant, on H. R. 406, that the parties meet with Judge Finney, of the Interior Department, for the purpose of discussing points of difference and, if possible, arriving at an agreement, the undersigned representatives of the city of Los Angeles met with representatives of the other parties at Judge Finney's office on the 5th instant for the purpose named.

Various propositions and counterpropositions were submitted at such conference, but without avail; the parties, apparently, could not agree.

In view of the fact that the object of such conference was to enable the parties by negotiation and compromise to come to an agreement, I deem it improper, since no agreement was reached, to attempt to state any of the tentative proposals submitted by the parties.

Yours, very truly,

W. B. MATHEWS.

APPENDIX B.

DIFFERENCES BETWEEN H. R. 406, SIXTY-SIXTH CONGRESS, FIRST SESSION, AND AN ACT APPROVED JUNE 30, 1906, GRANTING TO THE CITY OF LOS ANGELES CERTAIN RIGHTS OF WAY.

[Matter in line type and italic show changes.]

A BILL *Amending an act entitled* "An act authorizing and directing the Secretary of the Interior to sell to the city of Los Angeles, California, certain public lands in California, and granting rights in, over, and through the Sierra Forest Reserve, the Santa Barbara Forest Reserve, and the San Gabriel Timberland Reserve, California, to the city of Los Angeles, California," approved June 30, 1906.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of an act entitled "An act authorizing and directing the Secretary of the Interior to sell to the city of Los Angeles, California, certain public lands in California; and granting rights in, over, and through the Sierra Forest Reserve, the Santa Barbara Forest Reserve, and the San Gabriel Timberland Reserve, California, to the city of Los Angeles, California," approved June 30, 1906, be, and the same is hereby, amended to read as follows:

SECTION 1. That thereis hereby granted to the city of Los Angeles, California, a municipal corporation of the State of California, all necessary rights of way, not to exceed two hundred and fifty feet in width, over and through the public lands of the United States in the counties of *Mono*, Inyo, Kern, and Los Angeles, State of California, and over and through the ~~Sierra,~~ *Inyo*, and Santa Barbara ~~forest reserves~~ National Forests, and ~~the San Gabriel Timberland Reserve, in said State,~~ *that portion of the Angeles National Forest situate and lying west of range six west, San Bernardino meridian, as established by the United States public-land survey, and that portion of the Sequoia National Forest east of the crest of the Sierra Nevada Mountains, in said State*, for the purpose of constructing, operating, and maintaining canals, ditches, pipes and pipe lines, flumes, tunnels, and conduits for conveying water to the city of Los Angeles, and for the purpose of constructing, operating, and maintaining power and electric plants, poles, and lines for the generation and distribution of electric energy, together with such lands as the Secretary of the Interior may deem to be actually necessary for power houses, diverting and storage dams and reservoirs, and necessary buildings and structures to be used in connection with the construction, operation, and maintenance of said water, power, and electric plants, whenever said city shall have filed as hereinafter provided, and the same shall have been approved by the Secretary of the Interior, a map or maps showing the boundaries, locations, and extent of said proposed rights of way for the purposes hereinabove set forth: *Provided however, That the grant hereby made shall not apply to lands located in the drainage basin of Kern River or in that portion of Mono County lying north and west of the Owens River drainage basin, or to lands located upon Bishop Creek or its branches in Inyo County, or to lands in the Fish Slough Reservoir site in the counties of Inyo and Mono, in said State.*"

SEC. 2. That section 2 of the act entitled and approved as aforesaid be, and the same is hereby, amended to read as follows:

"SEC. 2. That ~~within one year after the passage of this act~~ *on or before the 31st day of December, 1922*, the city of Los Angeles shall file with the ~~registers~~ *register* of the United States land offices in the districts where the lands traversed by said rights of way are located a map or maps showing the boundaries, locations, and extent of said proposed rights of way, for the purposes stated in section ~~one~~ *1* of this act~~;~~, *and there shall also be filed within that time all desired changes of location, the amended map or maps necessary to show such changes of location to be filed in the same manner and subject to the same approval as are the original map or maps of location*, but no construction work shall be commenced on *any of* said ~~land~~ *lands* until ~~said~~ *the* map or maps have been filed as herein provided and *until said map or maps and the proposed plan of development have been* approved by the Secretary of the Interior;, *and the approval by the Secretary of the Interior of any amended map or maps showing changes of location of said rights of way shall operate as an abandonment ipso facto by the city of Los Angeles, to the extent of such change or changes, of the rights of way indicated on the original map or maps:* ~~*Provided, however,* That any changes of location of said rights of way may be made by said city of Los Angeles, within two years after the filing of said map or maps by filing such additional map or maps as may be necessary to show such changes of location, said additional map or maps to be filed in the same manner as the original map or maps; and the approval of the Secretary of the Interior of said map or maps showing changes of location of said rights of way shall operate as an abandonment by the city of Los Angeles to the extent of such change or changes, of the rights of way indicated on the original maps: *And provided further,*~~ *Provided*~~;~~

That any rights inuring to the city of Los Angeles under this act shall, on ~~the~~ approval ~~of the map or maps referred to herein~~ by the Secretary of the Interior *of the map or maps and the plan of development referred to*, relate back to the date of the filing of said map or maps with the register of the United States Land Office, as provided herein."

SEC. 3. That section 3 of the act entitled and approved as aforesaid be, and the same is hereby, amended to read as follows:

"SEC. 3. That the rights of way hereby granted shall not be effective over any land upon which homestead, mining, or other existing valid claims shall have been filed or made until the city of Los Angeles shall have procured proper relinquishments of all such entries and claims, or acquired title by due process of law and just compensation paid to said entrymen or claimants and caused proper evidence of such fact to be filed with the Secretary of the Interior: *Provided, however*, That this act shall not apply to any lands embraced in rights of way heretofore approved under any act of Congress, nor affect the adjudication of any pending applications for rights of way by the owner or owners of existing water rights, and that no private right, title, interest, or claim of any person, persons, or corporation in or to any of the lands traversed by or embraced in said right of way shall be interfered with or abridged, except with the consent of the owner or owners or claimant or claimants thereof, or by due process of law, and just compensation paid to such owner or claimant: *Provided, That the lands affected hereby shall be subject to applications for homesteads, for rights of way for canals, ditches, or reservoirs, for the conveyance, delivery, or storage of water for irrigation, if same be filed in the proper United States office prior to the filing of maps by the city of Los Angeles, showing the boundaries, location, and extent of the rights of way sought by said city: And provided further, That the grant hereby made shall not apply to any lands or rights of way included in any application filed by, and thereafter approved to, any person or corporation for the development of hydroelectric power in connection with any project upon which actual construction work was being performed prior to June 30, 1916, on that portion of Owens River lying above the confluence of Rock Creek and said river and locally known as Owens River Gorge, and upon which portion construction work may have been carried on continuously since that date: Provided, That such applications for rights of way over or the right to use lands shall be filed within six months from the date of the passage of this act.*"

SEC. 4. That section 5 of the act entitled and approved as aforesaid be, and the same is hereby, amended to read as follows:

"SEC. 5. That all lands over which the rights of way mentioned in this act shall pass shall be disposed of subject to such easements: *Provided, however*, That if *the* construction of said waterworks shall not have been begun in good faith within five years ~~from~~ *of* the date of *the* approval of this act, ~~or if after such period of five years there shall be a cessation of such construction for a period of three consecutive years,~~ then all rights hereunder shall be forfeited to the United States: *And provided further, That if any power or electric works or structure to be used in connection therewith shall not be completed within five years after approval of the map or maps of rights of way for such works or structure as herein provided, or within such additional time as the Secretary of the Interior shall, in his discretion, grant, then such rights herein granted shall be forfeited as to any uncompleted portion of such works or structure, to the extent that the same is not completed at the date of the forfeiture.*"

SEC. 5. That said act entitled and approved as aforesaid be, and the same is hereby, amended by adding a new section thereto to read as follows:

"*SEC. 8. That this act is a grant upon certain expressed conditions specifically set forth herein, and nothing herein contained shall be construed as affecting or intended to affect or in any wise to interfere with the laws of the State of California, relating to the control, appropriation, use, or distribution of water used in irrigation or for municipal or other uses, or any vested right acquired thereunder, and the Secretaries of the Interior and Agriculture, respectively, and the city of Los Angeles, in carrying out the provisions of this act, shall proceed in conformity with the laws of said State.*"

(The act of June 30, 1906, contains seven sections; sections 4, 6, and 7 thereof are unaffected by the bill H. R. 406, Sixty-sixth Congress, first session.)

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